

THE CASE  
OF  
DR. FREDERICK BEER,

WITH A  
COMMENT AND NOTES,

BY  
J. SHELDON MOORE,

Principal of Wandsworth College.

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SYDNEY :

PRINTED AT THE "GUTTENBERG" PRINTING OFFICE,  
109, YORK STREET.

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Principal of Randwick College.

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THE CASE

OF FREDERICK BEER

CONSTITUTIONAL AND POLITICAL

J. STEPHENSON MOORE

Principal of Missouri College

ST. LOUIS

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## INTRODUCTION.

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THE public will hardly care to examine the motives which have led to the following critical examination of the facts and circumstances of this Australian *cause célèbre*. It may not, however, be without significance to state, that the writer's first investigation of the case took place towards the end of the year 1861, and was made for the purpose of censuring, in the columns of an influential journal, the elective branch of the Legislature for having granted a Special Committee, on the petition of Dr. Beer, to sift the whole matter. The writer, therefore, started with a strong prejudice against the appellant. On perusing, carefully and conscientiously, the sworn and documentary evidence adduced before that Committee, his prepossession yielded to a full conviction that a terrible wrong had been perpetrated in the name of justice; that an innocent man had been made the victim of class prejudices and of a moneyed institution; and that the whole country was responsible for the vindication of truth, and the indemnification—so far as that was possible—of the man whose name, character, and life-prospects had been blasted through a miscarriage of justice. What was Dr. Beer's case twelve years ago, may be anybody's to-morrow, unless such an expression of the country's indignation at wrong-doing be given, as will make wrong-doers shrink, through very fear, from the perpetration of such nefarious acts as the one now under notice. "It is—" to quote the language of the Great Duke of Wellington—"the privilege and duty of every British subject to watch with jealousy the administration of Justice."



The writer in order to get at the truth, and the whole truth traced the case from its very origin—traced it from cause to effect and from effect to cause through the severest logical process of which he was capable—tried hard to find a weak link in Dr. Beer's chain of defence—even a possibility of his guilt, drawn from his general character and the story of his life as revealed in the evidence. He acknowledges, as the result of his patient and protracted inquiry, his conviction of Dr. Beer's thorough innocence and his certainty that the sanctity of justice has been basely violated—most foully desecrated—in the name and under the sanction of Law. All this will be *demonstrated*—every material fact being substantiated by sworn testimony—in the following pages. More than this, when he found that the dead body of one of the chief witnesses against Dr. Beer—that of the woman Brown, who died in June last—furnished equally positive testimony of her perjury,\* of the soundness of Dr. Beer's treatment, and of the utter worthlessness of the Medical evidence against him, he felt not only more fully convinced of the truth of his previous conclusion, but experienced an absolute certainty of Dr. Beer's innocence, and a moral responsibility of putting the proofs of that innocence before the public.

The case naturally resolved itself, when under investigation, into the following points of consideration:—

1. The early connection of Dr. Beer with the Browns—their antecedents and his.
2. The *facts* in reference to the Insurances—actual or attempted—of the life of the woman Brown.
3. The charge on which Dr. Beer was arrested and committed for trial.

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\*See Dr. Anderson's Certificate of her post-mortem examination, Appendix B.



4. The trial itself and all its surroundings, particularly the character of the medical evidence given.
5. The treatment of Dr. Beer after the Judge who tried him, the Jury before whom he was tried, and a Select Committee of the Legislature had substantially pronounced his innocence.
6. The present refusal of those in power not only to do him justice, but even to listen to his cry for justice.

On these several points the premises of a just conclusion are laid down in the following pages. They will prove Dr. Beer's innocence in thought, word, and deed, of the crime with which he was charged; they will prove his sufferings and unmerited dishonour in a manner which, if there is a sense of British fair-play in the community, must lead to a complete vindication of his character and some indemnification for the temporary dishonour done to it. It would be an insult to the intelligence of the people—a national participation in a public crime—a base violation of eternal justice—a houndish servility to those in power—a violation of the Redeemer's Commandments of Brotherly Love—to allow a man, *whose innocence is demonstrated*, to walk under the slightest shadow of that cloud of infamy, which prejudice, perjury, perversion of law and equity, and mad professional jealousy flung over it more than twelve years ago.

“Advance, Australia” is a good motto! Yes, “Advance, Australia” in the path of true moral progress, which also leads to the pleasant ways of national greatness, by righting the wronged and resisting the oppressor.

J. S. M.

Sydney, August 20th, 1868.



## THE CASE OF DR. FREDERICK BEER.

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ONE of the most remarkable, and at the same time one of the most painful, stories that has occurred in these colonies is that of Dr. F. Beer. The loss of twelve years is a long period in the life of any man, in the intercourse of his fellow-man, even if this loss is occasioned by sickness or voluntary seclusion. But the case is far harder when the law has been the unjust cause of his sufferings, and has robbed its victim not only of his liberty, but of his reputation and honour. Twelve years have elapsed since Dr. Beer was convicted of a crime which could only exist in the imagination of his accusers; and he now comes forward to prove that innocence which, as he declares, he was not allowed to vindicate at the time, and to bring a righteous retribution upon those who perverted justice to their own malignant ends. Very painful indeed is this story; especially as long disgrace and punishment have fallen on the head of the victim whose only fault was his great generosity towards his accusers.\* Indicted upon a charge which carries its own absurdity upon the face of it; accused by testimony directly opposed to the highest authorities and experience; condemned upon a supposition which should of itself have been sufficient to obtain an acquittal, and silenced by a judge having an interest in the event—even were this all, Dr. Beer would have no small claim upon justice and upon society. But this by no means embraces the whole state of the case. During the dreary period of his punishment, he has spared no pains to obtain that full inquiry, the denial of which when he

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\*See the evidence of the woman Brown *passim*. She swears that Dr. Beer befriended her—that his treatment relieved her—that the worst symptoms of her disease developed themselves through neglecting his advice—that he promised to watch her case, even after he had quarrelled with her husband. Strange as it may appear, Dr. Beer's misfortunes seem to be the consequences of an impulsive and ill-placed generosity.



was tried for his life forms, if it indeed be true, one of the most monstrous cases in British jurisprudence.\* And what has been the result? The highest Medical authorities have declared his innocence. The Judge who tried him has declared his innocence. The Jury who condemned him have declared his innocence. The Committee of the Legislature who examined him have declared his innocence.† All this was done years ago, and yet in the face of all this he has been left to work out the full sentence of the Court, and even now to bear upon him the stigma of infamy on account of a crime which it is acknowledged by all, enemies as well as friends, he not only never committed, but which never possibly could have been committed.‡ Such cases are happily rare, but when they do unfortunately occur they call for the utmost vigilance on the part of the Press and the Public.

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\*Dr. Beer's cry for justice runs through a series of letters, petitions, appeals, &c., too voluminous to reproduce. We give, however, a few of them in Appendix A., in the following order:—

1. His first letter after conviction.
2. His petition to Sir William Denison,
3. His petition to Judge Therry.
4. His application to have his case brought under the Executive Council.
5. The petition to the Legislative Assembly of 1554 inhabitants of Braidwood entreating investigation.

His efforts through the Press are too numerous to be even summarized. The fact is, he has evidently consecrated the remainder of his life to the vindication of his character.

†The conclusion at which that Committee arrived is given in Appendix C.

‡The language of the hostile Judge, and the more inveterately hostile *Herald*, proves that the crime of which Dr. Beer was convicted exceeded the bounds of moral possibility. The Judge's opinion:—His Honor said the issue they were trying was as to whether there was an intent to poison, and not whether the prisoner failed in giving poison to procure abortion.

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The jury, he added, had taken a most humane and merciful view of his case; for had they found him guilty of the charge in the second count, he (prisoner) would stand in a very different position from the one he then occupied.—Report of the *Sydney Morning Herald*, Monday, April 14th, 1856.

In the *Herald* of Tuesday, April 15th, 1855, a few days after Dr. Beer had received his sentence, the Editor writes:—The jury have pronounced a verdict, and that verdict condemns the accused. It is impossible not to find that, if the jury have not erred in their judgment, the criminal has been treated with a leniency wholly undeserved. \* \* \*  
\* \* \* If Dr. Beer had no design on the life of the mother, there cannot be the smallest reason to suspect him of maliciously compassing the death



The facts of this *cause célèbre* are as follows:—In the year 1853, a young Swiss Doctor of the Zurich University came to establish himself in Sydney. He was but imperfectly acquainted with our language and possessed of few friends and no interest. One of his first patients was a Mrs. Brown, who had been attended for some time by Dr. Salter for supposed cancer, and was the wife of a Tidewaiter in the Custom House. Isolated in position and ignorant of the peculiarities of the Colony, it was impossible for the young Swiss to suspect (what he afterwards learned too late) the antecedents of this Officer in Her Majesty's Service and his wife, and to refuse the only friendship which was proffered to the stranger. Utterly depraved in morals, Mr. and Mrs. Brown appear to have possessed, as is sometimes the case, much kindness of heart; and when Dr. Beer fell into pecuniary difficulties assisted him out of them at no little cost to themselves. Influenced therefore by strong feelings of gratitude, Dr. Beer bethought himself of some way in which he could return the kindness shown him by the family. Now, during the intimacy which had sprung between the Dr. and Mrs. and Mr. Brown,

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of the child. \* \* \* \* \* We say at once that if there can be any doubt that he intended to kill the mother, to just the same extent is there good ground for doubting that he acted in bad faith and with malice in his endeavours to destroy the child. If he did not mean the death of Mrs. Brown, all the evidence on the Insurance was irrelevant. All the conversations about the policy, the false certificates, and the threats of exposure, which were submitted to the jury, were beside the question. If Dr. Beer did not mean to kill the mother there is not the smallest reason to imagine that he acted in bad faith. \* \* \* \* \* If the case were stripped of all the facts which relate to the insurances, as is done by the verdict, we could have no hesitation of acquitting Dr. Beer of the charge altogether. The motive for the crime is taken away. \* \* \* \* \* A Welsh jury brought in a verdict of manslaughter against a man for stealing in a dwelling-house a pair of breeches, when that offence was punishable with death! The present case is not quite as absurd, but certainly if Dr. Beer did not intend to kill the mother, there is no imaginable reason for thinking that in any criminal sense he sought the destruction of the child.

In this aspect of the case it may be the duty of the Executive to determine, whether a verdict of not guilty, on the second count, is not in fact an acquittal on the first—whether a jury which has acquitted Dr. Beer of designs on the mother had any evidence to convict him of a minor charge—whether in short they were not led to infer malice, wholly and solely, from the present mass of startling facts which were accumulated round the Insurance papers, but which the verdict has totally set aside. \* \* \* \* \* Either Dr. Beer deserves the severest penalty the law allows, or he is an innocent man; and we regret that the jury did not acquit him rather than ignore the only evidence on which guilt could be assumed at all.



the real character of the latter had begun to betray itself; and the former saw that in the event of Mrs. Brown's death, no care would be taken of her unfortunate family. Influenced, therefore, by strong motives of gratitude, he determined that the benefits of the father should be repaid to the children, urged upon Mrs. Brown the advantage of insuring her life in their favour, and in order that her dissolute husband might be unable to obtain possession after her death, he suggested that it might be made out in his own name, and a deed of transfer to the children drawn up. *The draft of this deed bearing date was drawn up by Mr. Deane, Solicitor, and entirely removes any suspicion, room to which might have reason had the policy been effected.\** Pursuant to this advice various applications were made to different offices by the Browns with these results:—

1. In April 1855 (when Mrs. Brown could not have been pregnant), Dr. Beer made application to the Monarch for an Insurance in his own name on the life of Mrs. Brown which Policy was, as we have said, to have been transferred to the children. *This Policy was refused, and nothing more was ever heard of insuring Mrs. Brown's life in favour of Dr. Beer.*
2. Mr. Brown applied for an Insurance on his wife's life to the London and Liverpool and was refused.
3. And at the same time, Mr. Brown applied to the Church of England and was accepted.
4. Mr. Brown applied to the Mutual Provident Society and was accepted.
5. Mr. Brown applied to the Alliance and was refused; Dr. Beer in the last case advanced him the money (£40)† to pay the premium.

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\*See Mr. Deane's letter, Appendix C.

†For receipts, see Report of Select Committee—pages 19 and 20—another instance of Dr. Beer's generosity to the Browns.



One more circumstance must be noticed in connection with these Policies, a circumstance which undoubtedly tended greatly to throw a shadow on the conduct of Dr. Beer. The subject is most delicate, but justice requires plain speaking. Three of the Insurance Companies sent an Inquiry paper to Dr. Beer, not as their own paid agent but in the private capacity of Medical adviser to Mrs. Brown, containing amongst other things the following question. "Is there anything to shorten life?" Now, in the course of his treatment, Dr. Beer had discovered not only that the supposed cancer was in reality a Venereal complaint, but that his patient was also suffering from Rokitansky-stricture of the Rectum, a disease which in all probability was produced by a crime punishable by death, committed by another while suffering from Venereal disease. This complaint the Doctor did not feel called upon to reveal—in the first place, on account of the professional secrecy so necessary between Doctor and Patient, and so strongly advocated by the Judge in his summing up, and partly because it did not *NECESSARILY tend to shorten life*. He therefore said nothing about it in his certificates of health, leaving it to the paid Medical advisers of the Companies to discover what in reality was their business to find out, and not Dr. Beer's to reveal. How far he was culpable in this it is not necessary for us now to discuss, but unquestionably this was a point which strongly weighed against Dr. Beer in the public mind. Most unjustifiably; since the revelation of that fearful disease, although it did not tend to shorten life, would have exposed Dr. Beer to a prosecution by the Browns for disclosing family secrets. Had he revealed it, the whole Faculty, when aware of the fact, would have expressed strong reprobation for such violation of professional secrecy. It was one of those cases no medical man should—or decently could—make known. No one blames the priest for refusing, even for the ends of justice, to disclose the secrets of the confessional. Such was the position of affairs on the 10th of February, 1856, Dr. Beer possessing *no interest* whatever in the death of Mrs. Brown, her husband having £2000 in that event, and being moreover engaged to be married to a second wife as soon as death would be kind enough to relieve him of his first



whose disease had practically long rendered him a widower.\* Let us mark the events which follow. On the 14th of February Dr. Beer called on Mr. Brown. In the account of this visit there occurs a contradiction—the first of a long series in which the truth on the one side or the other can only be ascertained by considering the circumstances of the case. Mr. Brown has sworn that Dr. Beer threatened him to inform the Insurance Companies of the disease of Mrs. Brown, unless one of the Policies were given up to himself. Dr. Beer swears that he threatened to do so, because Mr. Brown offered to “pay him handsomely if his wife should die,” and in that event he should not receive the amount of the policies. The result of course is oath against oath, and each man must judge for himself whether it is most probable that merely a virtuous indignation at attempted extortion should induce this man Brown, loathing his wife and engaged to be married to another when she died, to give up his £2000; or whether the intending murderer, baffled in his machinations by Dr. Beer’s expressed determination, took fright at the exposure he had made of his own desires, and hastened “to gain the whipland” of the man who had refused to be his tool and threatened to be his accuser. A few days after this interim (“19th of February”) Dr. Beer called on Mrs. Brown for the last time, and we shall not dwell upon the scene that is represented to have occurred there.† It is sufficient to observe that Mrs. Brown herself admits by implication, that Dr. Beer had no

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\*The following letter, which bears about it intrinsic evidence of reliability, and the writer of which is ready to give his name when necessary, will substantiate the above statement:—Dr. Beer—Sir—I have read your case of Beer *v.* Brown. To vindicate your character, that said Brown ought to hang. Go to Mr. William Dean, Draper, Windsor, and ask if Brown was not courting his housekeeper (Smith), and when Lockyer informed him he (Brown) was a married man, whether he (Dean) did not satisfy himself by following Brown to Cumberland street; ask him what Brown told him when threatened with a horse-whipping, confessing to be married, but that in a month he would be able to make the girl (Smith) his wife. As a proof, vide *Bell’s Life* of that time, about Whity-Brown taking his pigs to the wrong market. What he said on the night before that white-washing is sufficient to place the guilt, and clear your character from imputation.—You don’t know me, but I do you, and believe you to be the victim of a scoundrel. I throw out these hints, “Take them or leave them.”—Yours respectfully, \* \* \*

West Maitland, December 23rd, 1867.

†See evidence in Report of the Parliamentary Committee.



interest in her life, and that he said he would continue to watch her after another doctor had been called in “whether Mr. Brown liked it or not,” as indeed it was his bounden duty to do after the conduct of Mr. Brown.

Such is the extraordinary prelude to the still more extraordinary trial of which we have now to speak. But as we have already given the substance of the evidence, it will not be necessary to go into the allegations of each particular witness; but merely to direct attention to those particulars in which the present trial differs from the ordinary course of justice. The very first step in it is as extraordinary as it is ridiculous. On the 5th of March Dr. Beer was arrested for attempting to procure abortion by means of Belladonna, administered as suppositories on the 10th of February. The Doctor burst out laughing, and well he might. Conceive a Medical man arrested for attempting to commit murder by ordering a black draught or to destroy the complexion by an application of Rowland’s Kalydor, and the accusation is equally credible and equally creditable.

Dr. Beer burst out laughing well knowing the impossibility of the offence of which he was charged. But though he knew that Belladonna could not procure an abortion of the “foetus,” he did not know the yet more subtle poison which can procure the miscarriage of justice. He was taken to the Police Court, and there he learned how little the most palpable innocence can prevail against the triple alliance of Jealousy, Ignorance, and Unscrupulousness. For five weeks he lay in Darlinghurst—with no friend to console, no lawyer to advise him—unable to do anything to establish his own defence, *unable even to obtain the depositions upon which he was committed from the Police Court.* Five weeks did he lie there; and not until three days before his trial, was he put in possession of the testimony of his accusers. But this is nothing. This is legal. Let us go on to the next move. On the 5th of March Dr. Beer was *committed* for attempting to procure abortion by administering Extract of Belladonna; on the 9th of April he suddenly, and without notice, found himself placed on his trial for the *attempted murder* of Mrs. Brown!—Since when was such a thing heard of in British Courts of Justice!—A man finds himself placed at the Bar of an English Court



to be tried for his life without a word of warning; not on the precise charge on which he was committed, but on a far more serious one subsequently added to the indictment. Such a case is a blot on our records that can never be wholly erased. Alone then, defenceless, unacquainted with the niceties of English Law, unfamiliar with the language in which the question of his life or death was in debate, this young stranger had to defend himself against a sudden stroke of the Law, as the unwarned traveller against the secret hand of the assassin. No warning was given, no preparation was allowed. Not only was the charge of a totally different nature from that on which the prisoner had been committed, but the evidence requisite for the defence involved a somewhat new and difficult element. The former charge of attempting to procure abortion was so ridiculous as to betray its absurdity to anyone possessing ordinary medical knowledge, but the charge of attempting to murder might have had some colour and pretence if Mrs. Brown had not been previously diseased, and if any motive could be shewn for the attempt. Thus two new classes of evidence were dragged in, the evidence of former illness and the evidence of the Policies. Against all this the prisoner had to defend himself, in the agitation and consequent confusion of a sudden attack made by the Law on his life.

He seems to have been a man of no mean strength of mind. When arrested on the first charge, he merely laughed at its absurdity; when tried for the second, he collected himself as coolly as though his life had not been in danger. The judge offered him counsel, he declined; the prosecutor urged him, he refused.

Well would it have been for him had he steadily persisted in his refusal, but the urgency of the Court was repeated again and again, and at last he consented to accept. The next morning he was told that neither of the two Counsel he had named, Mr. Darvall or Mr. Broadhurst, was in attendance, but that a Counsel of the name of Blake had been provided for him. The trial, if trial it can be called, went on, the first witness being Mrs. Brown herself. Of the credibility of this good lady, we shall merely observe that she swore to having rolled in agony for a whole night on the floor of the room in which her husband was sleeping, without his being disturbed by it in any degree, and that in



describing the effects of the drug administered, the only symptoms hit upon by her which was really characteristic of poisoning by Belladonna, was one which could not have been exhibited till after death. So difficult is it to be a consistent liar. The next witness called was Mr. M. G. Brown.

He swore—

1. That Dr. Beer administered  $\frac{1}{2}$  drachm of Belladonna, a statement disproved now by Dr. Elliott and by the box of suppositories produced in Court.
2. That he did not direct the suppositories to be introduced if required, a statement contradicted by the very prescription.
3. That he himself (Mr. M. G. Brown) did not read the label, a statement contradicted by his son G. R. Brown.
4. That up to the time when Dr. Beer told Mrs. Brown that she could not live, she was in general good health, a statement of the most vital moment, contradicted by Dr. Salter, Henry Hargreaves, Ann Seath, Ann Ray, the Chemist Horner, and the son George R. Brown.
5. And, finally, that he (M. G. Brown) was never present at any operation performed on Mrs. Brown by Dr. Beer, a statement contradicted by Ann Ray, and his son, G. R. Brown.\* Such was the evidence of Mr. Brown. After this reliable witness came the valuable testimony of the Doctors, and as Medical evidence is always intricate, we present that in a tabular form:—

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\*For a contradiction *in extenso* of these five points in Brown's evidence, see Appendix F.



From what source these "*savans*" obtained their notions of this drug it is not easy to divine, not from "PEREIRA," as we have just now seen. The only explanations that appear as possible is, that they all simply confounded extract of Belladonna with its *principle* Atropia, which would be something like mistaking Castor for Croton Oil. There is a grim humour in this document which is quite unique. The perfect simplicity with which these learned men first declared themselves to have had no experience in the working of this ordinary drug, and then proceed to contradict all the most renowned authorities, is not unworthy of Dr. Shallow or Dogberry. No comment of our own shall mar the rich effect. There is, however, one little incident to which we must allude in order to refute the extraordinary theories of the "Collective wisdom of New South Wales." Dr. Beer in the course of the investigation at the Police Court endured a test which should have satisfied the most practical of men, the Duke of Wellington. While the Doctors were swearing that from  $\frac{1}{4}$  to  $\frac{1}{2}$  a grain was a dangerous dose, he coolly swallowed  $2\frac{1}{2}$  grains without producing any effect whatever. The whole Court was in confusion. For three hours they watched the Doctor, expecting like the Barbarians of Melite, that "he should fall dead, or that some evil should happen to him." It is a pity, that when after all, they found no evil effect, they should not have had the generosity of the same Barbarians to change their minds and say he was a God. The rest of the evidence concerned the history of the Policies, and simply proved, beyond a doubt, that Doctor Beer had no interest whatever, *directly or indirectly, proximate or remote*, in the death of Mrs. Brown. This closed the case for the prosecution, such as it was, and one would have thought that a sufficient amount of injustice had then been committed. But next came an event which exceeds all the rest put together, and strikes at the very root of Justice and Freedom. The Counsel whom the prisoner had, at the instance of the Court, reluctantly consented on the second day to accept, was a man of tolerable parts, but quite ignorant of the merits of the case, and new to legal proceedings. He neither read his brief nor communicated with the prisoner. He examined Dr. Lassus, who had previously given evidence at the Police Court, and obtained from



Dr. Aaron (an honorable exception to the Medical evidence for the Crown) testimony directly in favor of the accused, based upon his own experience in the use of Belladonna; and then he (this *assigned* Counsel) quietly absented\* himself without calling a single witness subpoenaed by Dr. Beer for the defence. We may conceive what would have been said had an English Barrister acted in a similar way. But now let us conceive the situation of this unhappy stranger. Placed suddenly upon his trial for his life, accused of a crime of which he had no suspicion till he actually found himself in the Dock, and deserted by his own Counsel to whom in an evil hour he had consented to intrust his life and honour. One can imagine how every point would be strained in his behalf by an English Judge. One would imagine how every effort would be made by the Court to provide for the fullest investigation and elicit the smallest material circumstance that would tend to establish his innocence, particularly when the accused had promised to the Judge at an early stage of the proceedings "to prove the evidence of the principal witnesses as false," and the whole a concoction. For the salt of England is the uprightness of her judges.

Abandoned by his Counsel, the prisoner was about to conclude the case, as he had commenced, on his own behalf. But he was stopped by the Judge before he could call one of his witnesses. Fourteen men and women were waiting outside the Court ready to give evidence, and it may be to establish his innocence, viz:—Dr. Salter, J. C. Horner, Mrs. Ann Seath, Mrs. Nesbitt, J. Dent, J. Kim, Mr. Russell, Mrs. Russell, Mr. Robinson, Mrs. Hickey, Mr. Dean, Mr. Reynolds, Ann Ray, Mr. Hargreaves, and Dr. Willmott, and not one of those was allowed to be called by this immaculate Judge. No! was the reply, "Your Counsel has closed your case!! and besides your trial has lasted already four days!!!" The remainder of the trial was in strict keeping with what had already taken place—this Judge having absolutely cross-examined three witnesses in the absence of the prisoner's Counsel, and after he had himself declared the case to be closed. His Honor then proceeded to his summing up.

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\*The cause of this absence should have been inquired into and given.



He first observed on the imperative duty of a Doctor to preserve inviolable the secrets of his patients, and then consistently condemned Dr. Beer for having preserved inviolable the existence of a disease of a most delicate nature, not tending to shorten life, the mere utterance of which might have caused a criminal prosecution. Yet, throughout the trial, Mrs. Brown had been represented to the jury—by herself, by the Crown Prosecutor, and the Medical *Savans*—as having been a perfectly healthy woman notwithstanding her admissions to the contrary. He quietly assumed that the Doctor possessed an interest in Mrs. Brown's life, "a prospect not existing," disregarding the ample evidence to the contrary, and utterly omitted to suggest that had the Doctor intended to secure a Policy this very fact would have been a motive for preserving her life until the interest became existing and not prospective. And he absolutely thought proper to address to the Jury such language as the following:—"The conduct of the prisoner was of a most detestable and hypocritical character, leaving them (Mr. and Mrs. Brown) to believe that his object was to benefit them and their family. The whole of his representations on this point were of a most gross and treacherous character." This is the language not of the Prosecutor, but of the Judge, and that too in the very face of the draft intended to transfer the Policy—applied for more than twelve months before—if granted for the benefit of Brown's children! The verdict in this extraordinary parody of judicial proceedings was not unworthy of the indictment, the prosecution, the evidence, and the judicial charge. Cutting away the motive supposed to be derived from the Policies, there was no ground for supposing that any crime whatever had been attempted. So the jury ingeniously decided that the prisoner was not guilty of the only crime which could by any moral possibility have been committed, and found him guilty of one which was not merely impossible, but which must have been utterly useless had not the first one been committed also. Let this point be well understood and remembered: the Jury declare him innocent of any attempt on the life of the mother but find him *guilty (!)* of trying to procure the destruction of an unborn child, and that by small doses of Belladonna in suppositories!



There is something grimly ludicrous as well as horrible in this decision—of which eleven of the Jury were, a few months afterwards, penitently conscious, as their appeal to the Government for a mitigation of Dr. Beer's sentence, proves.\*

Thus ended this most painful farce, this mockery of a trial. Where shall we find an explanation of its anomalies? We give the following facts which Doctor Beer found out (when too late), and leave it to others to say whether they are likely to be in any way connected with or led to the event. The facts are these:—“The Prosecuting Counsel, two of the principal witnesses, *the Judge himself* and some of the Jury, were all members of the Prosecuting Society,” were all in fact Prosecutors themselves. And the Judge dared to sit in judgment and the Jury to condemn!

It were vain to attempt any summary of injustices committed in this monstrous case. The whole prosecution was a series of infamies. The testimony was false, the trial hurried and illegal, the Judge interested, and the crime impossible. It might, indeed, be said, that no blame was attached to the Insurance Companies, for they could not tell the absurdity of the accusation or judge otherwise than by the opinion of their Medical advisers, if they had abandoned the case after the exposures elicited at the Police Court, during the course of the investigation, and the comments of the daily journals. It may be that the principal portion of the Medical Body of Sydney knew nothing of the nature of an ordinary drug, and did venture to attempt to swear away a man's life through pure ignorance. We cordially hope it was so, and trust that they will learn a little of the contents of the handbooks on Medical Science before again giving in their evidence as Medical “Experts.” And we most earnestly hope that they knew nothing of the characters of the informers and of the nature of the testimony that they were obliged to give. But whether the ignorance of all of them was real or assumed, we shall have something to say anon.

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\*Eleven of the Jury signed this petition: the twelfth could not be found in Sydney.



But what shall we say of the perjury of the Browns? What shall we say of the lawyer who abandoned his client? What shall we say of the judge who permits a man to be arraigned for procuring abortion and tried for attempting murder, who interrupts the Counsel for the defence by a *quibble* for the prosecution, and who finally refuses the prisoner to produce a single witness for the defence? Such a case is happily rare, nay it is, we believe, unparalleled, and we hope that the punishment will be as equal as the crime. A man who murders another hurts perhaps a few people, but a judge and prosecutor who trample upon justice inflicts a wound upon the whole nation. The mere fact that anyone has been tried without a warning, tried illegally and improperly, and sentenced without defence, is sufficient to startle the most apathetic! And the nation should not rest until full reparation has been made to the unfortunate victim of a Jury's ignorance—of professional jealousy—of a Joint Stock Company's fears—of perjured witnesses—and of such a Judge.\*

With this summary and critical survey of the case we might bring our remarks to a close, had not one circumstance of a singularly significant and startling character occurred, during the evidence of the medical men at the Criminal Court, which the strongest considerations of truth and justice compel us to mention. While Dr. Beer was conducting his own case, and while he was defending his treatment of the woman Brown by appealing to distinguished foreign and English authorities—particularly Taylor, Christison, and Thomson amongst the English—one of the medical experts in the witness box depreciated the value of

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\*Mr. Justice Therry exhibited a wavering or impulsive character all through the case. He morally forced the defendant to intrust his case to Counsel—he refused to allow him to call his witnesses—he bullied him for having attempted to unveil the real character of the Browns—he neglected to urge as he ought, Dr. Beer's case on the Government, after he had become satisfied about his innocence—he declined to accept Sir Benjamin Brodie's handwriting as genuine (although it could be proved by Medical men who knew it) till authenticated by the Lord Mayor and Corporate Seal of the City of London—he kept that authentication of Sir Benjamin Brodie's letter for weeks by him (in fact till within three days of his exit from the Colony)—and, finally, he carried off with him his Judicial Note-Book (probably to enrich his *Reminiscences of N.S.W.* with apt illustrations), which has seriously affected Dr. Beer's means of bringing perjury home to more than one of his persecutors.



those authorities, and referred to Pereira as being more "satisfactory and respectable"—the very words sworn to. Hereupon Pereira's great work—the *Materia Medica*—was put into the Judge's hands, and he read from it the following passage, marked for him by the Doctors:—

*As a prophylactic against Scarlatina.*—The introduction of belladonna into practice as a preventive of scarlet fever, is owing to the absurd homœopathic axiom of "*similia similibus curantur*:" for as this plant gives rise to an affection of the throat, and sometimes to a scarlet rash on the skin, its power of guarding the system against the reception of scarlet fever has been assumed; and the assumption has been endeavoured to be established by an appeal to experience. Bayle has collected from various publications 2,027 cases of persons who took this medicine, and were exposed to the contagion; of these 1,948 escaped. Oppenheim gave it to 1,200 soldiers, and only twelve became affected. To the authorities here referred to may be added Hufeland and Koreff, who admit, from their own personal observations, the efficacy of the remedy, though they have not specified the number of cases in which they have tried it. But bearing in mind the well-known capriciousness evinced by scarlet fever (as indeed by other contagious disorders) in regard to the subjects of its attacks, and the large number of those who, though exposed to its influence, escape, the best evidence hitherto adduced in favour of the notion must be admitted to be inconclusive. While, therefore, the facts brought forward in favour of the existence of this prophylactic power are only negative, those which can be adduced against it are positive. For I conceive twenty cases of failure are more conclusive against the opinion here referred to, than one thousand of non-occurrence are in favour of it. Now Lehman, Barth, Wendt, Muhrbeck, Hoffmann, Bock, and many others that I could refer to, declare it has failed in their hands to evince its prophylactic powers. In this country we have no extended series of observations to quote; but the cases which I am acquainted with are decidedly against the efficacy of the remedy. A remarkable failure is mentioned by Dr. Sigmond of a family of eleven persons who took the supposed specific, yet every individual contracted the disease.

Now, although there is not a word in this passage which any well-informed mind could apply as an argument against Dr. Beer's treatment of Mrs. Brown—the whole passage referring solely to the use of Belladonna as a prophylactic against *Scarlatina*—still it made a prejudicial impression on the minds of the Judge and the Jury. But will the public believe, that if the Judge had read either the page before or the page after the paragraph, he would have found the great Pereira—"the satisfactory and respectable authority" of the *Sydney Savans*—absolutely



supporting Dr. Beer's treatment and defending an application or use of the drug far in excess of that for which Dr. Beer had been arraigned at a Criminal Bar? Here is a passage from the very next page of Pereira, which the Doctors did *not* show to the Judge, and which the Judge did *not* find out for himself:—

*Extractum Belladonnæ*.—As the strength of the extract is extremely variable, some writers recommend only one-quarter or one-half of a grain to be given at the commencement of its use, and to be repeated three times a day; and the dose to be increased until the well-known effects of the remedy are produced. Mr. Baily observes that he at first began with one grain, and repeated it every four hours until relief followed; but further experience induced him to commence with three times that quantity, and, if a repetition were necessary, to give it in diminished doses afterwards. Spread upon leather, the extract is frequently used as a plaster to relieve neuralgic and other pains (see *Emplastrum Belladonnæ*). Diluted with water to the consistence of cream, it is applied to the eyebrow to produce dilatation of the pupil; or an aqueous solution of the extract is dropped between the lids. Mixed with lard or spermaceti ointment, it is used as a topical anodyne and antispasmodic in various diseases (see *Unguentum Belladonnæ*). A bougie smeared over with the extract and oil is sometimes used with benefit in stricture. A drachm or two of the extract, either alone or in the form of ointment, may be applied to the os uteri to diminish rigidity. In irritation of the bladder, urinary organs, or rectum, clysters holding in solution the extract are sometimes used.

What! Pereira recommends a drachm or two—*sixty or one hundred and twenty grains*—of the bare extract to be applied in certain cases. Dr. Beer prescribed five grains as an application in one of those cases, and for this he was being tried for an attempt to commit murder! In the very page before the paragraph read by the Judge, Pereira's opinion is equally clearly given. He himself emphasises the following passage: “*In spasmodic stricture of the urethra, and of the sphincters of the bladder and rectum, and in spasmodic contraction of the uterus, the topical use of the extract (smeared on a bougie) applied to the perineum or other parts, or employed by way of a clyster, has appeared to give relief.*” Can we any longer charitably assume that the Doctors acted in crass ignorance and without malice? Did they not know what was in the very “respectable authority” they had relied on? Not know what was stated on the page before and the page after the paragraph they had handed for perusal to the



Judge? We entreat every reader, who is anxious to learn fully and fairly the doctrine of Pereira on the uses, &c. of belladonna, to read his "Elements of Materia Medica," from page 1402 to page 1415, vol. II. (edition of 1850), and he will be able to form a true opinion of the candour and spirit of the medical *savans* who "gave evidence for the Crown" in this remarkable case.

After so complete a vindication of Dr. Beer's treatment as we have just given from Pereira, it will seem superfluous to offer further corroboration of its correctness. But as the opinion of Sir Benjamin Brodie will be valued wherever sterling English honesty is prized and sound English ability appreciated, we cannot resist recording it, just as it is embodied in the very letter (addressed to Francis Beer, Esq.), which Mr. Justice Therry doubted to be genuine, till he had got the authentication of the Lord Mayor of London. It runs as follows:—

GLASGOW, *September*, 1857.

TO FRANCIS BEER, ESQ.,

Sir—Your letter of the 25th August has been forwarded to me at this place. If I understand your statement rightly the circumstances of the case on which you wish to have my opinion are essentially as follows:—

1.—Your brother, Dr. Frederick Beer, was consulted by Mrs. Brown, that lady being then in a state of pregnancy.

2.—Mrs. Brown was in a very delicate state of health, having suffered from syphilis. It was your brother's opinion also that she laboured under disorganisation of the bowels, but it is not very clearly stated what was the exact nature of the disease of the bowels, which that term is intended to express.

3.—On the 10th of February, 1856, your brother was called to see Mrs. Brown who was then labouring under slight labour pains, great irritation of the rectum, and what your brother supposed to be some kind of stricture of the rectum, preventing the passage of either air or fæces.

4.—Your brother under the circumstances (being apprehensive of labour coming on prematurely) prescribed a course of suppositories, each consisting of five grains of Belladonna, to be introduced into the rectum. It is not stated whether only one or several of these suppositories were had recourse to, nor in what form the Belladonna was employed, but I suppose that it was in that of extract.

5.—Under this treatment Mrs. Brown obtained relief from the symptoms, and the premature labour which Dr. Beer apprehended was prevented.



6.—Dr. Beer continued to attend Mrs. Brown until the 15th of February,\* and on the 19th of the same month criminal proceedings were instituted against him on the ground of his having administered the suppositories of Belladonna with a view to procure abortion, upon which charge the Jury brought in a verdict of Guilty.

Now concluding that the main facts of the case are such as have been just stated, I cannot have the smallest hesitation in saying that both the charge and the verdict are utterly absurd. I can understand that Dr. Beer might have prescribed the use of Belladonna with a view to prevent premature labour, but I cannot suppose that either he or anyone else should dream of prescribing it for the purpose of procuring abortion.

But I ought to add that if the suppositories were made of the extract of Belladonna, that remedy was administered in much larger doses than I should think prudent to prescribe, if it had been prepared by one of the best London chemists. This, however, as well as many other extracts, is often very imperfectly prepared, and it is very probable that that which was to be procured at Sydney was not of the very best quality. At any rate it does not appear from the accounts which you have sent me that Mrs. Brown suffered from any of the peculiar symptoms which an overdose of Belladonna is liable to produce.

I am, Sir,

Your obedient Servant,

B. C. BRODIE.

A word of comment—a word of illustration—a single line of commendation—on the contents of this document, would simply detract from its force and mar its effect, besides being an insult to the reader's intelligence and common sense. It may, however, be of some interest to non-professional readers, to know what the recent practice of English physicians has been in the use of belladonna. At a meeting of the Royal Medical and Chirurgical Society of England—we are culling the information from the Medical journals—held on the 23rd May, 1865, Charles Hunter, Esq., read a paper on “The Hypodermic Administration of Certain Medicines.” In the discussion (see *Lancet*, 17th June, 1865,) Dr. Stewart said “he had often administered remedies by the rectum. His FAVOURITE method of treating intestinal obstructions had long been the injection of extract of belladonna in doses of two or three grains.” Mr. Savory remarked that with solids a much larger quantity of drugs may be applied as they

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\*Dr. Beer attended Mrs. Brown, not as Sir B. C. Brodie supposes only till the 15th of February, but till the 19th of the same month. Further, he was not made aware of the fact, that Mrs. Brown had been *accustomed* to the soothing effects of belladonna, having often had it applied in ten-grain doses *endermically* (on a freshly abraded surface), as can be seen by referring to her own evidence and that of Mr. J. C. Horner at the Police Court.



remain a long while in the rectum without being dissolved. This fact the Committee also proved "by placing a similar suppository" to that prescribed by Dr. Beer to Mrs. Brown, "made up at the same druggists shop, in a glass of water, when at the end of four hours, they found it was not all dissolved." A more complete justification of Dr. Beer's practice could not be found in the annals of medical jurisprudence. In addition to this, and as undeniable proof that the *opinions* of the "medical talent" of Sydney as to the powers of belladonna, and more particularly with reference to its specific action on the uterus or foetus, were dusty cobwebs of their imagination, the reader is referred to Taylor's Medical Jurisprudence (7th Ed., 1861), an acknowledged standard work, in which Dr. Beer's case is alluded to with natural surprise that sound medical treatment should have produced such results.

Well, the case came to an end—as already stated—and Dr. Beer was convicted by a British Judge, chiefly on the evidence of British medical men, of having attempted the life of an unborn child by administering five grains of belladonna, in *suppositories*, to its mother, and narrowly escaped hanging for the administration of the said five grains! And although his innocence was established years ago, no Government has had the honesty to repair any portion of the injury done him.

We had some idea at the outset of presenting to the reader a picture of this victim's dreary imprisonment—of the stolid but maddening indifference with which his cries for justice have been received by those in power—of the horrors of mind which a well-born, refined, and educated young man must have endured in being thrust from a good social position, to herd with common felons. *Nothing could have saved him from suicide or madness, during that horrible period of legal vengeance, save the invigorating consciousness of innocence and the heroic determination (equally vivifying) to vindicate his character.* With these few words, we will spare the reader all details of how he was punished—through a whole decade of years—for having prescribed a course of belladonna in suppositories, each containing five grains of the extract, and of which suppositories *only two-and-a-half* were required, in consequence of irritation in the bowels and of premature labour having ceased!



The perversity of a certain class of minds is as ludicrous as it is exasperating. You will meet people in the streets who, although they believe Dr. Beer's treatment of the woman Brown was sound and successful—so successful to restore the creature to tolerable health notwithstanding her habits of intemperance—will still put on a solemn look, and talk to you in a mysterious way about the "Insurance Offices," and "the policies," and "the bills of health," as if there was some strong element of criminality mixed up with those proceedings. (See Appendix H.) So far from Dr. Beer's dealings with the Insurance Offices being any evidence of criminal motives on his part, they furnish positive—nay infallible—proof, that he could not have had any criminal intent at all. They prove, on the one hand, beyond the possibility of doubt, that if he had had any wicked desire to profit by the policies, *it would have been a main object of his to keep Mrs. Brown alive till a personal interest in her death arose.* But we have seen he was arraigned for an attempt to murder her, not only when he could gain nothing by her death, but for drugs administered several days before the day to which the man Brown swore that Dr. Beer spoke to him about "one of the policies." These said policies, on the other hand, furnish equally positive proof that while Dr. Beer never had a single farthing's interest in the death of Mrs. Brown, her husband had £2000 on that event. They also furnish intrinsic evidence of the fact, that all the notions which Dr. Beer had originally gathered about Insurance matters (for he was at the time a young man not long away from his University in Germany, where Insurance certainly did not form a part of the *curriculum*), he must have gathered it from the Browns themselves. It will become as clear as the brightest of summer noon-days to anyone who takes the trouble to study the whole case, that the man Brown worked upon the young foreigner's generosity and equally on his ignorance of our British prejudices in reference to medical etiquette, and got him to furnish *bills of health* for Mrs. Brown to sundry offices. Now, although Dr. Beer did not in those *bills of health* put forward a single statement that was not true, knowing as he did that her peculiar disease did not "tend to shorten her life," and further feeling convinced



that his treatment would restore her to health; still the mere fact of his having given so many of them--three or four--within a short period created a prejudice against him. Why? If he had a criminal motive at heart, would he have been so insane as to give such indications of that motive by issuing a whole series of certificates? These very certificates are proofs positive of his innocence--of the singleness of purpose with which he acted--of the readiness with which he was willing to assist the Browns in any way he honorably could. The man Brown through whose influence he furnished those certificates, had evidently been "speculating" on his wife's death; at all events *he* had all the interest in her death, while Dr. Beer had not then--never in his life had, as before stated--any interest at all, save his professional interest in keeping her alive--in restoring her to health. When will men (of the perverse class alluded to) begin to reason on the facts and surroundings of a case before jumping at conclusions? Why will they not prefer getting at the truth, though it may be with some trouble, rather than killing their fellow-man's reputation with a calumny? The whole history of the Insurance transaction is one that redounds greatly to Dr. Beer's impulsive generosity of feeling--to his sense of gratitude; and one which furnishes the most obvious proof of his innocence "in thought, word, and deed," of the crime with which he was charged. No doubt his prosecutors cleverly mixed up these "policy matters" and fairly puzzled the Jury with them. But why did not the Judge--the arbiter of divine Justice between the accuser and the accused--put the facts fully and in order before the Jury? The facts were simple. Dr. Beer some fourteen months before his arraignment had applied for a policy on Mrs. Brown's life with the view of transferring it (the draft of the transfer was in the Judge's hand) to her children. That policy WAS REFUSED. *Dr. Beer never afterwards applied* for another. Mr. Brown had applied for several, and succeeded in securing two. This, then, was the state of the case when "the break" between Dr. Beer and Mr. Brown occurred--at the Argyle Store. Why, we ask again, were not all the facts stated in the order of their occurrence, and not muddled up together--"certificates" being mixed with "policies," and both with five-grain doses of belladonna in suppositories!



Another cruel wrong was done to Dr. Beer at the trial. He had become insolvent, through pressure from a judgment creditor, some twenty months before his trial, liabilities £1900; and at a meeting of his creditors held shortly after his insolvency, they agreed to accept 2s. 6d., in the pound, which they were paid. Did this payment satisfy Dr. Beer's sense of honor and justice? No; seven months afterwards (in July, 1855,) he inserted an advertisement in the *Herald*, announcing to his creditors that he was prepared to pay them twenty shillings in the pound; *and he did pay them twenty shillings in the pound accordingly.* In the face of this fact—paying over more than twelve hundred pounds for which there was not a shadow of *legal* claim on him—can it be believed that six months later he attempted to murder a patient for a few hundreds! The supposition is so monstrous, that whoever makes it must possess a brain of extraordinary or rather abnormal structure. During his trial, the prosecution frequently made “a point” of this insolvency, but without a single allusion to the fact (well known) of the insolvent having paid *twenty shillings in the pound.* Was this British justice?

The bare idea of Dr. Beer's exhibiting a mercenary disposition (to say nothing about committing a crime, for money) is positively ludicrous to those who know him. While the present writer was connected with the Italian Consulate, and before his acquaintance with Dr. Beer, he became officially aware of the fact that Dr. Beer had spent over £50 to enable a poor Italian to procure a passage to India. It also came to his (the writer's) knowledge, and he is prepared to give proofs and particulars of the fact to any one who wishes to see them, that Dr. Beer expended over a thousand pounds to save a well-born gentleman from poverty, and the probability of a shadow being cast on his reputation. He also to the writer's knowledge (and of which the writer possesses the proofs) erected a monument, at considerable expense, over the grave of one of our public men through a feeling of generous shame at the ingratitude of the public in whose service that gentleman had long laboured and died. The writer also knows that both in Braidwood and Sydney, Dr. Beer has always been *the poor man's Doctor* (which means acting professionally for those who cannot pay fees), and has not only given



advice and medicine gratuitously to the poor, but often money to procure comforts. Again, then, we ask, is this a man likely to commit a crime for a few hundreds? By looking to Appendix G. the reader will find a few facts, in the light of which he can pretty correctly read Dr. Beer's character. From those facts and the statements above made (all of which can be attested on oath if necessary), the reader will be able to come to the writer's conclusion, that it is all but a moral impossibility that a man of Dr. Beer's temperament, generous instincts, and philanthropic aspirations, would commit the smallest crime—nay, even to do the most trifling of mean actions—for the sake of money!

And yet this man—so liberal and large-hearted, so consistently kind and charitable—has not only been foully wronged, but there seems to be no disposition or intention on the part of those in power (and whose solemn duty before God and man it is!) to right him. He cried aloud for justice during the dreary period of his cruel punishment; he cries aloud still. But Justice in his case is not only blind and deaf, but turns her face from him. Immediately on his return from Europe last year, he commenced proceedings against the man Brown for perjury; and although he established one of the clearest cases of perjury that was ever set forth in a Court of law, the presiding Magistrate (doubtless acting under advice) dismissed it. The matter was then brought under the Attorney-General, who promised to look into it, but never did; who on being reminded of his promise, repeated and neglected it; and who on being reminded again, got angry and refused to move in the matter at all! Do we live in a land governed by British laws and administered by Englishmen? or are we at the mercy of an autocrat? Is the performance of an act of simple justice to depend on the state of a public officer's nerves, or the fluctuations of his temper, or on any of his peculiar temporary humours?

The correspondence which we subjoin will—better than any words of ours—show “the latest additional wrong” which has been done to Dr. Beer:—



129, King Street, Sydney,  
12th June, 1868.

My dear Sir—I regret exceedingly that my efforts to procure the favourable notice of the Attorney-General, or any reply from him to my letters written, as your attorney, have proved abortive. In justice to myself, however, I enclose you copies of those letters, and a note and reply from Mr. Driver, so that your friends may judge and yourself be satisfied that I have not been negligent of your interests, prompted, as I have always been by a conviction of your innocence with reference to the original charge made against you, and your undeserved and great suffering in consequence. I should advise you to take steps to bring the matter before the Legislature, as it appears to me impossible to obtain any attention from the Attorney-General in his official capacity while so much of his time is devoted to his private practice.

Yours very truly,  
WILLIAM HELLYER.

F. BEER, ESQ., M.D.

129, King Street, Sydney,  
10th February, 1858.

To the Honorable James Martin, Esq., Attorney-General.

BEER v. BROWN. PERJURY.

Sir—On behalf of Fredk. Beer, Esq., M.D., I bring under your notice a charge of perjury brought by him against Michael G. Brown, before C. D. F. Scott, Esq., P.M., Sydney, alleged to have been committed by the defendant in the year 1856, in the inception and prosecution of a charge against Dr. Beer, that he, on the 10th of February, 1856, feloniously and unlawfully administered to, and caused to be taken by Phillis Brown, half a drachm of belladonna, with intent to procure her miscarriage. The depositions were sworn to by M. G. Brown, on the 5th, 7th, and 10th days of March, 1856, before J. S. Dowling, Esq., J.P., in Sydney, and contained the statements following:—

1. That Dr. Beer administered half a drachm of belladonna.
2. That he did not direct suppositories to be introduced if required.
3. That Michael George Brown did not read the label.
4. That up to the time Dr. Beer told Mrs. Brown that she could not live, she was in general good health.
5. That Michael George Brown was not present when any operation was performed.
6. That he never applied any instrument except an enema, and never saw any other instrument.



Upon this evidence, material to the prosecution of the charge against Dr. Beer, he was convicted, sentenced to ten years on the roads or other public works of the colony, with hard labour, and served the full period of his punishment. The prosecution was conducted by A. T. Holroyd, Esq., for the Australian Mutual Provident Society, the actual prosecutors, the Judge who tried the case, the then Solicitor-General, the Attorney-General, and counsel prosecuting, and some of the jury, being members of the same society.

The case of Dr. Beer has already engaged the attention of a select committee of the Legislative Assembly, who by their report, dated 16th day of January, 1862, "absolved him altogether from the charge on which he was found guilty," and stating that the use of belladonna in the mode prescribed could not have procured abortion, perjured evidence and professional rivalry giving a foundation for the verdict.

Dr. Beer was condemned, degraded, and imprisoned unjustly. It is due to the honourable profession of which he is a member, to himself as innocent, and in the furtherance of justice, to establish the correctness of his treatment of the case of Mrs. Brown; remove the stain cast upon the profession in his sufferings; and punish those who wilfully and corruptly brought about his conviction.

The prosecution of Michael George Brown, for perjury, is the first step taken to place the truth before the public, and to expose the malignant complication which has embittered the best years of Dr. Beer's life, and if not exposed further is calculated to enshroud and blast his future.

I shall endeavour to establish the perjury on each assignment, and the materiality to the prosecution of Dr. Beer, by a reference to the evidence taken before Captain Scott, on the 29th of November, 4th, 10th, and 16th of December last.

That the first and second assignments are false, is conclusively proved by the evidence of Dr. Beer, that  $2\frac{1}{2}$  suppositories, containing  $12\frac{1}{2}$  grains of belladonna only were administered,  $3\frac{1}{2}$  suppositories being produced at the trial. The evidence of Dr. Elliott, that the box containing suppositories from his brother's establishment was produced at the trial, with a label containing the same direction as the prescription, and the prescription given by Dr. Beer for the suppositories.

The label and directions on the box, the said prescription, and the evidence of George Brown then taken, prove the third assignment of perjury.

The evidence of Dr. Beer, Dr. Salter, Henry Hargraves, Ann Seath, Ann Ray, and George Brown, then taken, and the evidence of J. C. Horner, then read, fully proves the fourth assignment of perjury.

The evidence of Dr. Beer, George Brown, and Ann Ray, then taken, prove the fifth assignment of perjury.



The evidence of Dr. Beer, George Brown, and Charles Reynolds, then taken, prove the sixth assignment of perjury.

I respectfully refer to the depositions taken: I submit that the perjury committed by the first, second, and fourth assignments were directly material to the charge brought against Dr. Beer, and that the perjury mentioned in the third, fifth, and sixth assignments were also material, and in support of the statement made in the fourth assignment; and that the case before the jury could not have been substantiated against Dr. Beer without such evidence being offered. The statement made in the first assignment is in support of the fact of administering. The statements made in the second, third, and fourth assignments are in proof of the intent charged; and in the fifth and sixth are material to the fourth.

I find, on perusal of medical authorities, Taylor on Poisons, and Pereira, that the administering of belladonna, as charged, could not have procured abortion if Mrs. Brown had been in general good health, as alleged; but having regard to her state of disease, as described by medical testimony, could not have injured Mrs. Brown in any manner. It is distinctly proved that she had long been suffering from *venereal disease*; that operations for the removal of tumors from the vagina had been frequently and successfully performed by Dr. Beer; that she was, at the time of administering, afflicted with Rokitansky-stricture, the result of venereal disease in the rectum; and that the application of belladonna was absolutely requisite as a relaxant to allay the irritation of the stricture.

It was material to the prosecution to prove that Mrs. Brown was a healthy woman (even according to the medical testimony offered at the trial) to assume that the application of belladonna was an improper remedy, and I refer to an extract from the brief for the prosecution in corroboration. "All the above facts having been communicated to the Australian Mutual Provident Society, it being ascertained that the suppositories contained belladonna in dangerous quantities, the Australian Mutual Provident Society, with the two other societies above mentioned, have determined to have the matter fully investigated. The principal evidence will of course be by Mr. and Mrs. Brown."

I have respectfully to request that you will direct a new inquiry, or prosecution, of this case against Michael George Brown, and in that event I venture to repeat the expression contained in a letter from the honorable member for Braidwood to Dr. Beer—"I hope that I shall then be able to obtain from the country that justice which seems to have been so long denied to you."

Awaiting your reply,

I have the honor to be,

Your very obedient servant,

WILLIAM HELLYER,

Solicitor, &c.



129, King Street, Sydney,  
21st March, 1868.

To the Honorable the Attorney-General.

Dear Sir—Re Beer v. Brown, On the 10th of February last I wrote to you with reference to this matter, and have anxiously expected some reply, May I ask your attention to it as the delay is felt very deeply by Dr. Beer, and he has been informed you have stated an intention to do something in the matter of the prosecution.

Your very obedient servant,  
WILLIAM HELLYER.

129, King Street, Sydney,  
12th May, 1868.

To the Honorable James Martin, Esq., Premier and Attorney-General.

Sir—At the request of Dr. Beer I again call your attention to my letter to you on his behalf of the 10th day of February last, to which you have failed replying although your attention has been frequently directed to it, and you have repeatedly promised to look into the matter and give me an answer. I regret this matter of such vital importance to Dr. Beer should have hitherto met with such continuous indifference, it adds much to the suffering he has undergone, that at the very fountain of justice attention to his case is apparently denied. Had an English labourer been so shamefully treated in a foreign land the nation would have been roused to compel redress. Surely some consideration should be shown to this Swiss gentleman.

Awaiting an early reply,

I have the honor to be,

Your obedient servant,  
WILLIAM HELLYER.

129, King Street, Sydney,  
21st May, 1868.

To the Honorable James Martin, Esq., Attorney-General.

Sir—When I saw you for a moment in the Jury Court on Friday last, you were busily engaged as counsel in the case of Guinness v. Joshua; and perhaps my inquiry on behalf of Dr. Beer was not well timed, and your reply, "that it was entirely at your discretion whether you would look at the depositions, or do anything." (after you had promised to Mr. Driver and myself to look into the matter) had not received sufficient consideration.

If I erred in addressing you in your public or official capacity while thus engaged, I must urge that I considered I was entitled to make the inquiry I did make, believing (as I did) that your public duty had not escaped attention; but my communication with the head of an important department should have been by letter.



TABLE showing the difference of practice by the Leading Faculty in Sydney and the Leading Authorities of Europe.

LEADERS OF THE FACULTY IN SYDNEY (1856).					LEADING AUTHORITIES OF EUROPE.			
NAMES OF THE MEDICAL PRACTITIONERS OF SYDNEY.	EXPERIENCE THEY HAVE HAD OF THE DRUG, APPLIED BY THE BOWELS.	THEIR EXPERIENCE OF IT TAKEN BY THE MOUTH.	DOSE BY MOUTH.	DOSE BY RECTUM.	DOSE WHEN APPLIED INTO THE BOWELS OR WOMB.	DOSE BY MOUTH.	DOSE WHEN APPLIED ENDERMICALLY ON ABRAIDED SURFACES.	BEST ENGLISH, FRENCH, AND GERMAN AUTHORITIES.
HOLROYD ...	None		$\frac{1}{4}$ Grain	Less than $\frac{1}{4}$ Gr.	Smeared on a bougie, or dissolved in a clyster, 1 to 2 drachms when applied to the neck of the womb. Of narcotics, I always exhibit twice or three times the ordinary dose by way of a clyster.	1 to 5 Grains.	3 to 4 Grains	PEREIRA
WILLIAMS ...	None	None	1-6 to 1 Grain	$1\frac{1}{2}$ to 2 Grains.				
BENNETT ...	None	Not stated	$\frac{1}{4}$ to 1 Grain	$1\frac{1}{2}$ to 2 Grains				
NATHAN ...	None	Says he has some	$\frac{1}{4}$ to 1 Grain					
M'KELLAR ..	None	Not stated	1-12 to $\frac{1}{8}$ Grain	Does not consent to its use by rectum.				
						3 Grains to commence.		BAILEY
					60 to 120 Grains to the neck of the womb.	A probable medium dose is 1 to 5 Grains.		CHRISTISON
RUTTER ...	None	None	$\frac{1}{8}$ to 1-3 Grain	Too dangerous to be used.	1 to 2 ozs. to 2 lbs. water, for several injections, to be frequently repeated.	1 to 5 Grains.	20 Grains in a fresh wound made for the purpose.	THOMPSON TROUSSEAU
BLAND ...	None	Says he has some	$\frac{1}{4}$ to 1 Grain	Does not coincide with practice of that sort.	Suppositories each containing 10 Grains.	8 Grains in 24 hours, increased till delirious symptoms appear.		LABORDETTE
ROBERTS ...	None	None	$\frac{1}{4}$ Grain		In Suppositories for bowels and womb.			LECLERC
					20 to 60 Grains in a clyster			BLACKETT
STOLWORTHY	None	None	1-12 to 1-6 Gr.	1-6 to 1-3 Gr.	For clysters and Suppositories 20 Grains up to at most 60 Grains	2 to 4 Grains, to commence with, and increase till the well-known symptoms.	Highest 10 Grs	PLAGGE
M'FARLANE ...	None	None	1-6 to 1 Grain	1 to 5 Grains (had no experience, but differs from the authorities)		8 to 12 Grains.		SAUTER STRECKER
					For clysters, 6 Grains.			
					Clysters, 6 to 12 Grains to a dose.	6 to 12 Grains per day.	3 to 6 Grains	OSTERLEN

N.B.—The opinions advanced, and the general doses quoted by these Sydney practitioners, stand alone and are unsupported by any medical works, while their experience in the matter is evidently very small.

N.B.—Coinciding with these authorities is every other medical work, as regards the effects and dose of the drug.







I must acknowledge that I heard with great astonishment, "That you did not understand receiving letters about Dr. Beer in the way you had;" but that was much increased when you added, "I'll not allow either him or his attorney to address me in the manner you have done," the more especially as my letters to you were temperate and respectful, submitting to your judgment that which I conceived to be my client's wrongs; and asking such relief as the humblest subject is entitled to, and the highest authority could justly and consistently grant.

I trusted to the merits of the case of Dr. Beer, to his unparalleled wrongs and sufferings, to set in motion the highest legal authority to punish legally and constitutionally a great crime. Yet, three months have elapsed, and no attention has been directed to it, and the casualties which occur during such a period have operated very unfavourably to his interests.

I have not resorted to other influence, or to any political or public pressure hitherto, yet you have adopted a tone and bearing that only would be merited by a criminal, whose only claim to notice was his own insignificance and guilt, and one which I submit this case did not merit.

I again bring under your notice my first communication to you on the 10th day of February last (to which you have repeatedly promised attention), and respectfully request an answer by Monday next.

I have the honor to be,

Your very obedient servant,

WILLIAM HELLYER,  
Solicitor.

129, King Street, Sydney,  
6th June, 1868.

RE DR. F. BEER.

My dear Sir—In the last session of Parliament you kindly brought under the notice of the Attorney-General the case of Beer v. Brown, for perjury, and on the 10th of March last, a notice of motion was on the Votes and Proceedings of the Legislative Assembly in your name for an address to the Governor for the production of the papers in the same case, and (if I understand you rightly) was withdrawn by you on that day upon the express promise of the Attorney-General that he would read through the depositions and look into the matter. Please inform me if my recollection is right as nothing has yet been done by the A. G.

R. DRIVER, ESQ., M.L.A.

Yours very faithfully,  
WILLIAM HELLYER.

Pitt Street, Sydney,  
June 12th, 1868.

BEER V. BROWN.

My dear Sir—In reply to your note, just received, in this matter, I postponed and ultimately withdrew the notice of motion of the 10th of March last, upon the promise, as I understood, of the Attorney-General that he would read through the depositions in the case, and look into the matter.

WM. HELLYER, ESQ., SOLICITOR.

Yours very truly,  
RD. DRIVER.



And so the matter rests at present! The victim of the Law's perversion may cower in the gloom of unmerited obloquy—may writhe in every fibre of his sensitive nature—may go down to his grave not merely unhonoured but dishonoured—because it is optional with the Attorney-General to look into the merits of the victim's case or not, just as it jumps with his humour! This is not England's estimate—England's sense of justice! This is not the view which English publicists and statesmen take of the moral duties of those to whom the administration of the laws is intrusted! Listen to the words which the great Gladstone recently addressed to his constituents at Southport—words of rare eloquence and high moral resonance—words which have sunk deep into the hearts of thousands and tens of thousands of Englishmen, filling them with delight, inspiring them with confidence in the sublime ideal of justice which the future Premier of England has formed, and enlarging their love for the laws under which they live! “We should not confound,” said Mr. Gladstone, “the cause of Fenianism with the cause of Ireland. Recent proceedings have sent a thrill of horror through the country; and when such proceedings occur, it is very difficult for the country to preserve a perfect balance of their minds—especially at a time when every man among us must feel that there is no absolute security or guarantee for any one man not becoming the victim of crimes of which he has hitherto been only the spectator. It is a solemn duty for us to keep the balance of mind. If the public are excited the excitement will find its way to the jury box. Aye, it will affect even the benches of justice. But there is no calamity that can happen to us one-half so great as that the purity of justice should be sullied by one single shade or the straightness of its aim diverted by one single hair's breadth from its mark. It often happens that when crimes are horrible, by a false logic, dictated by a false and spurious feeling, we begin to suppose, or to act as if we supposed, that because the charge was dreadful, therefore we might be less particular about the proof; but depend upon it there cannot be a more fatal error. It is absolutely necessary that in every case against men who have been tried or against men who are to be tried for outrages that make our blood run cold, they should have precisely



the same advantages, precisely the same favour and indulgence as in ordinary times is given to the most ordinary, the slightest offence—and that all should remember that in the eye of English law every man is innocent until he is legally found guilty. The august figure of Justice has eyes and ears—nay, it should be all eyes and ears for every description of testimony and information that bears upon the truth of charges; with whatever tends to prejudice the case, to inflame the mind, to carry the heat and temper of passion into the verdict that may be delivered—for all such matters the old proverb is good. “Justice should be absolutely deaf and absolutely blind.” *If the very Throne were at stake—the ancient Throne on which sits the beloved and venerated figure of our Sovereign; if the old and time-honoured laws of this kingdom were at stake; if every institution that we value and hold dear; if every institution that we have received from our fathers, and that we hope to hand down to our children were at stake in the issue of a criminal charge—still you must look at nothing but the sufficiency of the proof; you must let all charges, you must let all dangers be incurred, you must suffer the world to take its course, even though it were cracking in your ears, rather than allow the credit and the sanctity of justice to be tainted for a moment in the smallest degree.* And we have practical proofs every year of our lives of the upright zeal and generous liberality with which the people of England right the wronged and indemnify the victims of injustice. An outlay of three or four millions sterling, ungrudgingly expended, during the Abyssinian war, for the rescue of a few captives, is an illustration in point. Nor is this spirit of uprightness confined to cases which assume political significance. No year passes without our hearing some instance of individual innocence asserted and all the justice of the case vindicated. Here is a recent example—which we find skilfully sketched by a literary artist in the *Empire*. “Talking of verdicts,” runs on the writer, “reminds me of a paragraph in the last mail telegram, which might be made the text of a very forcible sermon. Some time ago, a Mr. Wilkinson, a bank manager, was convicted in England of forgery, and sentenced to five years imprisonment. It seemed rather a hard case at the time, and now we learn that it was even harder than it seemed, Mr. Wilkinson after having served a considerable



part of his sentence having been lately discharged from custody as the innocent victim of some "great mistake." A few years ago this great mistake would have cost Mr. Wilkinson his life; as it is, who can say that it has not cost even dearer things? Justice does not always whirl with equal measure, even in courts of law; *but a great mistake which consigns a man to a gaol, and at one fell blow blights his future and dishonours his name, is rather beyond the fair limits even of legal malpractices.* I wonder how many more victims there are of similar "great mistakes," pining in our gaols, or cursing in obscurity and disgrace the *laches* of the law."

We need hardly add another word. Dr. Beer is before the country for justice. His cry becomes intensified in proportion as he is flouted or baffled. He calls aloud for justice in the name of that Law which was strained—perverted—misapplied—to ruin him twelve years ago. He asks for it in the name of that Hospitality which was wickedly violated, when he—a stranger—a foreigner—ignorant of the mode of our legal procedure and of our customs—had not that impartiality of Bench and Bar exhibited in his regard, which is vouchsafed to the most hardened British felon. He calls for it in the name of bitter sufferings heroically endured and of innocence long since established. He demands it in the name of British Truth and Honour, both of which are deeply stained till his fair fame be assoiled, and the record of his disgrace be removed from the legal archives of the country. He implores it in the name of the good God, the Eternal Justice! who penetrates the secrets of all hearts, and scrutinizes all motives, and who will one day judge both Dr. Beer and his prosecutors! Shall this appeal be in vain? There is a principle of ethics—a canon of morals—a glorious axiom of all civilized nations—wrapped up in a proverb—it is this:—

FIAT JUSTITIA, RUAT CŒLUM!

May Australia adopt it in the case of Dr. Frederick Beer.



# APPENDICES.

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## APPENDIX A. No. 1.

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### DR. BEER'S LETTER TO MR. REYNOLDS AFTER SENTENCE.

Cockatoo, 11th May, 1856.

My dear friend,

\* \* \* \* \*

I know I am the victim of a villanous conspiracy. However, I put my whole confidence and trust in God, and in you and my remaining friends, and hope, as you lead me to expect, and as my conscience assures me, that all will still be right.

For fear of any accidents I wish you would take affidavits of the following persons that were subpoenaed by me.

*Dr. Salter:* To prove Mrs. Brown being seriously diseased and attended by him some time ago.

*Mr. Horner:* That I attended no other Mrs. Brown, and that by the cash receipts of £7 10s. and £3 15s. produced in court by her, it was her account; that she was treated for venereal, and took 17 boxes of Dzondis' corrosive sublimate pills, had been under influence of belladonna dressings on blisters 9 times, and has had the same suppositories before. (23rd April, 1865.)

*Mrs. Seath,* formerly of Black Swan: That Mr. and Mrs. Brown said to her and to Mr. and Mrs. Carroll, I cured her of a cancer in December 1855.

*Messrs. Want, Roxburgh and Want:* That I took their advice about the Alliance Insurance, and that they said the receipt for £40 or premium was only part of the transaction, and that legally Were and Pritchard could not be forced to issue a policy, and this was before the 10th of February, so I could not have had any idea of getting the policy.

*Nicholls and Williams,* Solicitors, Pitt Street: The same advice given to me, alike before the 10th of February. I fetched the order from Brown for the £40 the 7th of February after I took these advices.

*Mr. Russell:* That Mrs. Brown satisfied Mrs. Russell as to the fact of her being diseased by her husband.



*Mr. Rudolph Robinson*, formerly at Leigh's Bonded Store: That Brown told him he would get me to go to Were and Prichard and try to get the policy, as a man of standing; that I lent him the £40; that he would take the whip hand first into his hands and render up his policies.

*Mr. Willam Dean*, Market Street: As to Brown's character, and his late adventure and promises to——

*Mr. Kim*: That I would not attend Mrs. Brown any longer if I had any interest in her life; Messrs. Dent, Elliot, Senior, Henry, and Horner, Druggists, can prove as to the doses of Belladonna I generally gave and in which form, showing the prescription for Mrs. Brown being no extraordinary one.

Believe me to be, Dear Sir,

Yours, most obliged,

FREDERICK BEER.

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## APPENDIX A. No. 2.

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### DR. BEER'S PETITION.

TO HIS EXCELLENCY SIR WM. T. DENISON, Knight, Commander of the Most Honorable Order of the Bath, Governor-General in and over all Her Majesty's Colonies of New South Wales, Victoria, South Australia and Western Australia, and Captain-General and Governor-in-Chief of New South Wales and its dependencies, and Vice Admiral of the same, and to the Honorable the Executive Council of New South Wales.

The humble Petition of Frederick Beer, at present in the City of Sydney in New South Wales, a ticket-of-leave holder for the District of Braidwood in the said Colony,

Respectfully Sheweth,

1.—THAT your Petitioner on and previous to the tenth day of February, one thousand eight hundred and fifty-six, was a duly qualified Medical Practitioner in the Colony of New South Wales, and being Medicinæ, Chirurgiæ, artisquæ Obstetriciæ Doctor of the University of Zurich and practising his profession in the said City of Sydney.

2.—THAT your Petitioner was on the ninth day of April, one thousand eight hundred and fifty-six, tried at the Central Criminal Court at Darlinghurst in the said City before his Honor Mr. Justice Therry and a jury of twelve "for having on the tenth day of February, one thousand eight hundred and fifty-six, feloniously and unlawfully administered or caused "to be administered to Phillis Brown a large quantity of noxious drug, to "wit:—half a drachm of Belladonna with intent to produce a miscarriage," and was found Guilty and was on the twelfth day of the said month of February sentenced to be confined and kept to hard labor on the roads or other public works of the Colony for the period of ten years,—the fact being and in accordance with the evidence that only five grains had been prescribed as a dose to be applied, if necessary, every third hour.



3.—THAT the medical evidence on this charge was supported by a great number of the medical men then practising in Sydney, but who never having according to their evidence used Belladonna in the manner in which it had been prescribed by your Petitioner, and having prescribed the said medicine only in other ways, and that seldom, were unacquainted with its effects as prescribed by your Petitioner, and therefore merely gave their opinion as to what effect they supposed the said medicine would have, which opinion was not only based on the false premises that Mrs. Brown's bowels were not in a disorganized state, but is *eo ipso* irrational and in opposition to what is laid down in the best English medical works and a physiological impossibility, upon which evidence however your Petitioner was convicted.

4.—THAT your Petitioner, conscious that his verdict was wrong and that his treatment of Mrs. Brown was right, caused the whole of the evidence to be laid before the first medical authority in England, namely, Sir Benjamin Collins Brodie, Baronet, Physician to Her Most Gracious Majesty the Queen, in the month of September one thousand eight hundred and fifty-seven, with a view of obtaining his opinion thereon, and previously thereto in the month of April in the same year communicated to His Excellency the Governor-General that he had given the said medicine to Phillis Brown to prevent a threatening miscarriage, that on the arrival of Sir Benjamin Brodie's opinion full credence might be given to your Petitioner's statement of his reasons for having prescribed the same medicine.

5.—THAT your Petitioner has since received the said opinion from Sir Benjamin Collins Brodie, a copy whereof is hereto annexed and he extracts therefrom the following passages: "I cannot have the smallest hesitation "in saying that both the charge and the verdict are utterly absurd. I can "understand that Dr. Beer might have prescribed the use of Belladonna to "Mrs. Brown with a view to prevent premature labour, but I cannot suppose that he or anyone else would dream of prescribing it for the purpose "of procuring abortion," thus in fact approving of the practice of your Petitioner in this respect.

6.—THAT your Petitioner after receipt of this opinion, namely, on the 10th of June, one thousand eight hundred and fifty-eight, obtained an interview with His Honor Mr. Justice Therry whilst on a visit to Cockatoo Island, where your Petitioner had been sent to, and shewed His Honor this opinion who thereon recommended your Petitioner to present a petition to your Honorable Council, when he remarked, "that by the verdict of the "jury the case was taken out of his hands, but that the opinion of Sir Benjamin Collins Brodie threw a new feature on the whole case and that the "Petition would be referred to him and he would report favorably upon it "and that upon that account it would not be necessary for your Petitioner to "prove the disease of the bowels of Mrs. Brown, of the existence of which "he, Mr. Justice Therry, had since had an opportunity to convince himself by "the evidence of other Medical men who had professionally attended her."



7.—THAT in accordance with the suggestion of His Honor your Petitioner applied to Samuel North, Esquire, the Visiting Magistrate at Cockatoo Island, on the twentieth day of June, one thousand eight hundred and fifty-eight, for permission to present a Petition to your Honorable Council when he was informed that he could not be allowed to present such Petition.

8.—THAT your Petitioner with reference to the principal testimony against him on the facts of the case has only to say that as a foreigner he believed that Mr. Brown, from the position he held as a Government officer, was a man of respectability and therefore saw no harm in making, as your Petitioner supposed, friends of him and his family; but he has learned since his conviction and can prove if required, notwithstanding that they swore to the contrary, that they were not even man and wife although living as such, that they both came to the Colonies as convicts, and that Mrs. Brown, sometime previously to her appearance in Sydney, had kept a brothel in Flinder's Lane, Melbourne, whilst with reference to Mr. Brown your Petitioner he believes, need only say that his recent conduct has compelled him to fly the country under a false name, and that their supposed eldest son, who gave evidence in the case, was not the son of either of them, and is now willing to speak the whole truth, which, your Petitioner is assured, will put a very different aspect on the case,—he, however, is at present in the Parramatta Gaol under the name of George Russell for embezzlement.

9.—THAT your Petitioner, having served four years of the said term, has by his good conduct whilst at Cockatoo Island become entitled to a ticket-of-leave which he obtained on the twenty-sixth day of April last for the District of Braidwood aforesaid with leave to stay in Sydney for a short time for the purpose of arranging his affairs, and he now takes the earliest opportunity of laying these facts before your Honorable Council.

YOUR Petitioner therefore humbly prays that a remission of the remainder of his sentence may be most graciously granted and as a precedent would beg humbly to refer to the case of Dr. Smethurst, convicted in England in November last for the murder of Isabella Bankes by poison, who upon the opinion of Sir Benjamin Collins Brodie, that there was not absolute and complete evidence of his guilt was granted a free pardon, and would beg to call the attention of your Honorable Council to the concluding paragraph of the letter of the Right Honorable Sir G. C. Lewis to the Lord Chief Baron communicating the grant of such pardon as applicable to this case which is as follows: "The necessity which I have felt for advising Her Majesty to grant  
"a free pardon in this case has not, as it appears to me, arisen from a defect  
"in the Constitution or proceedings of the criminal tribunals. It has arisen  
"from the imperfections of Medical Science and from the fallibility of judgment in an obscure malady, even of skilful and experienced medical practitioners."

And your Petitioner as in duty bound will ever pray, &c.

Dated this seventh day of May, in the year of our Lord one thousand eight hundred and sixty.

FREDERICK BEER.

WILLIAM DEANE, Solicitor for the Petitioner, 9, Hunter Street, Sydney.



EXTRACT FROM A COMMUNICATION OF DR. BEER TO HIS  
EXCELLENCY SIR WILLIAM DENISON, K.C.B., Governor-  
General of N. S. W., &c., &c., dated 26th April, 1857.

“Should any of the above assertions become of great benefit for the community at large, as I flatter myself they will, I crave as the only benefit to myself that your Excellency may be pleased to peruse the Petition which some citizens of Sydney will have the honor to present to you at an early date in my behalf; and the only allusion I wish to make in regard to my unfortunate case, is to express a hope you will see, that I could not have had a criminal intent in the application of the Extract of Belladonna to Mrs. Brown when given in the form of suppositories (a drug, the beneficial capacities of which until late seem to have been almost as little known in this Colony as those of the Santonin), but that I endeavoured, and that with success, to prevent a threatening miscarriage taking place, which is always best met with narcotics. I beg to be allowed to remind your Excellency that the effects of Belladonna differ from other narcotics in this respect, that its *primary* effects influence *first* the muscular system and *not the brain*, by resisting and *relaxing muscular contractions*, or as in spasms by relieving them, and that therefore premature contractions of the womb are best met with that medicine.”

Although His Excellency in his acknowledgment of Dr. Beer's communication of June 1857, “could see no reason why the punishment awarded by the law should be set aside,” it nevertheless is very clear that the *rationale* of Dr. Beer's treatment of Mrs. Brown on the 10th of February, 1856, as set forth in his communication to His Excellency, coincides with the views of Sir B. C. Brodie, and is a proof of the former's superior judgment.

APPENDIX A. No. 3.

*Copy of a Petition addressed to Mr. Justice Therry, 17th January, 1858:—*

Sheweth,

That your Petitioner begs to apologise for trespassing on your time at a period when he is well aware the great and pressing business of the country occupies so much of your time and presses so heavily on your energies, but your Petitioner, still feeling thoroughly convinced of his own innocence, has no other alternative left, in the absence of a court of appeal, but to lay before your Honor such evidence as will, if carefully examined, convince you that the assertion of his innocence is well founded in fact, notwithstanding the verdict of a Jury to the contrary

Your Petitioner most earnestly implores your earnest consideration of his case, from the fact of a verdict of a Jury in criminal cases being considered by the criminal law of England as final, although extreme punishment, in many cases amounting to death, may be the result; whereas in ordinary transactions between man and man, when property to a small amount is involved, the law on a discovery of further evidence admits of a series of trials, by which either the plaintiff or defendant is sure of ultimately obtaining justice.



That, while your Petitioner is far from imputing any improper motives to the several medical gentlemen who gave evidence against him upon his trial, yet he respectfully submits that he is in a position to prove from the testimony of the most learned and scientific men in the medical world that the whole phalanx of medical witnesses which was arrayed against him on the part of the Crown was erroneous, and that these gentlemen, however, well intentioned, entirely misconstrued the object for which they were called to give evidence, their premises being contrary to the well-established and defined rules of Physiology, Morbid Anatomy (a science), and, as a consequence, their deductions being wholly and entirely the antithesis of the truth, and of course calculated to turn the balance in the minds of an unprofessional jury, and contribute to your Petitioner's conviction, which may emphatically and with truth said to be, not the verdict of twelve enlightened calm and dispassionate men, but the concurrent opinion of unskilled practitioners conveyed through the conduit pipe of a jury.

That your Petitioner, in making this assertion, does not mean to insinuate anything disrespectful to the gentlemen who composed that body, but he submits to your Honor that it is a fact patent that a body so constituted as that Jury was could be nothing more in his particular case than a mere reflex of the opinions tendered by the witnesses of the Crown; and it is therefore that he the more earnestly entreats your consideration of testimony of a far more exalted character, coming as it does from men far above suspicion, and who are in truth the light of the age in which they live—not local in their character, but shining forth in every country in Europe, as a guide to those who are anxious and ready to follow the paths of science and truth; and amongst those illustrious witnesses your Petitioner is about to beg your Honor's marked attention to that illustrious man, Sir B. C. Brodie, of whom the Lord Chief Justice of England said in his charge to the Jury, in the case of the Queen against Palmer, "that he was a man far above all suspicion."

That as a preliminary to the perusal of Sir B. C. Brodie's opinion, your Petitioner begs your Honor will be pleased to peruse the memorial which your Petitioner forwarded to your Honor, under date 23rd August last, which, although perhaps too elaborate, will be necessary to the right understanding of the opinion given by Dr. Brodie, a copy of which is hereunto annexed, the original being in the hands of Mr. Reynolds, who will produce it to your Honor if required.

That if your Honor will place these two documents—namely, the memorial of your Petitioner and the opinion of Dr. Brodie—in juxta-position, you will perceive that, although the one was written by him on Cockatoo Island in August last, and the other in Glasgow in September last, the opinion of the latter confirms all the particular points in the memorial of your Petitioner, and is a positive sanction to the mode of treatment that your Petitioner prescribed for Mrs. Brown on the 10th February, 1856. Indeed your Petitioner has never yet used language as thoroughly expressive of the ridicule or sarcasm of Sir B. C. Brodie, who says—"I cannot have the slightest hesitation in



saying that both the charge (meaning the alleged crime) and the verdict are utterly absurd;" and furthermore Sir B. C. Brodie says, "I can understand "that Dr. Beer might have prescribed Belladonna with a view to prevent premature labor, but I cannot suppose that either he or anyone else would "dream of prescribing it to procure abortion."

That your Petitioner, in submitting this testimony to your Honor, has far more confidence in the discrimination, discernment, and judgment of an enlightened gentleman, well versed in most of the sciences and all the affairs of life, than he had in the decision of a Jury, who are bound and trammelled to the necessity of reducing themselves to be exponents of the opinions of men not competent to the task which they undertook, and he confidently hopes that your Honor will ere this have perceived that your Petitioner acted conscientiously, and with a degree of high professional skill in the delicate and complicated duties which he was called to discharge towards Mrs. Brown on the 10th February, 1856, and that your Honor having once arrived at that conclusion, will not hesitate to recommend him to his Excellency the Governor-General for a free pardon.

That, however, should further corroborative evidence be wanting to clear away from your mind any shadow of doubt that may possibly remain, he most respectfully begs to call your Honor's attention to the evidence of Drs. Redhead and Williams, who have attended upon and treated Mrs. Brown recently, and for some time subsequent, to your Petitioner's conviction, keeping in view that these gentlemen were called upon to treat Mrs. Brown, laboring under, the same symptoms of disease—labor pains expected. From their testimony it will be seen that Mrs. Brown not only suffered from a disease in the rectum, but from the very identical one which your Petitioner throughout maintained to exist, namely, a stricture in the rectum, and that a formidable one, and they were guided to this conclusion by an exploration per anum with their finger—a proceeding conscientiously incumbent upon every honorable practitioner in any complaints of suffering about those parts, and without which it is impossible to form even an approximate opinion or arrive at an accurate conclusion, inasmuch as symptoms of a similar description at that particular part of the body are manifested by eleven separate diseases of the rectum, and amongst them principally those caused by gonorrhœa and syphilitic poisons, which, according to Rokitansky, always end in stricture, but are self-existent and entirely distinct from those caused by piles or prolapse of the guts, although the latter complaints may be co-existent with them, and are often erroneously ascribed to them if the examination is neglected.

That your Petitioner is correct in this view of the case, he begs to draw your Honor's attention to the opinion expressed by the learned Charles Bocke, Professor of Morbid Anatomy (a science), where, at page 334 in his compilation on Morbid Anatomy, he says—"A peculiar kind of inflammation (proctitis) of the rectum is, according to Rokitansky, that caused by venereal affection, which ends always in contraction and stricture of the passage in form of a callous ring." At page 666 he says—"The diseases of the rectum produce a "peculiar kind of pain, a tenesmus, a bearing down pain, and itchings; bloody



“mucous or pus passes involuntarily from the patient, (but are retained if “stricture is already formed,) and accumulation of wind; as they frequently “cause also pains in the small of the back (regio sacralis), and in the bladder, “and may also cause piles and prolapse of the rectum, they are not at all un- “frequently declared as being caused by piles, and remain unexamined; but “every conscious practitioner makes, in diseases about the rectum, an explo- “ration per anum.” And your Honor will find, referring to the evidence of Brown, that previous to the suppositories being administered to her, she labored under all the symptoms above enumerated. Yet Drs. Williams, Bland, Nathan, and M’Farlane maintained, unblushingly, that there was nothing in Mrs. Brown’s evidence to lead them to suppose that there was disease of the rectum.

That since your Petitioners conviction it has transpired, on the clearest testimony, that Mrs. Brown was at one time confined as a patient in the Sydney Infirmary, labouring under syphilitic disease, communicated to her by her husband; thus placing beyond doubt that she labored under this disease, and that long and severely—calculated as a primary cause for disease of the rectum, the treatment of which produced ravages on her constitution, caused extreme delicate health, and caused the death of her infant, which I predicted would be the case; and Dr. Redhead is ready to submit and prove to you, or any board of inquiry, that Mrs. Brown labored, and still does labor, under a diseased and disorganised state of the rectum, and that the treatment which your Petitioner prescribed for her was the best that could be adopted under the circumstances, and, apart of its having prevented premature labor, and the fatal consequences which might have resulted therefrom, it operated as the best specific or antidote to the pains and sufferings which she endured from the refreshed irritation and the diseased state of her rectum. Thus clearly showing that the Belladonna administered by your Petitioner was doubly efficacious, and strictly in accordance with the views and opinions of the most learned men in Europe, and corroborated by the testimony of Dr. Redhead.

That your Petitioner further wishes to draw your Honor’s attention to the evidence of the witness Horner, who by a legal subtlety on the part of the gentlemen who conducted the prosecution, was prevented from making it apparent to the Jury that a large portion of the medicines which Mrs. Brown paid for, and the receipts for which were produced before the court, consisted of Dr. Dzondis’ celebrated antisymphilitic mercurial pills (corrosive sublimate), and which Mrs. Brown in her evidence designated Golden Pills, and that much of the remainder of the medicines so furnished and charged to her consisted of Extract of Belladonna, in the various modes of application. Such, nevertheless, was the fact, and Mr. Horner is now prepared to prove the truth of the assertion, recollecting that he himself not only prepared those medicines, but took two boxes of such pills himself into her house and personally delivered them to Mrs. Brown,—which facts, notwithstanding, had been previously admitted at the preliminary examination at the police court.



That your Petitioner submits it is needless for him to say he had no interest whatever on the 10th February, 1856, in the death of Mrs. Brown, as was sought to be imputed to him by the evidence relative to the Insurance Company, and that a conscientious discharge of his duty, coupled with a sincere friendship and wish for the welfare of Mrs. Brown and children, prompted him to the course which he pursued towards her, particularly as he was aware, from the long course which he had with her domestic circle, that the conduct of Mr. Brown towards his wife was highly reprehensible, which led to your Petitioner remonstrating with Mr. Brown on the 14th February, 1856, as to the impropriety of his conduct towards his wife, evincing, as he did, a total disregard to her health, and even her life; and your Petitioner feels convinced that even her death would have been welcome to him, by means whereof he, and he alone, would reap the benefit arising from the policies of insurance, and hence it was that he exercised such improper influence over the mind of his wife, weak and debilitated as she was, which led to your Petitioner's declining to attend the family in a formal manner any longer; and it will be perceived that on the calling in of a new medical attendant, both Mr. and Mrs. Brown felt "themselves in such a peculiar position" as regards their relation to the Insurance Offices, which induced them to conceal from him the nature of your Petitioner's treatment, and induced Mrs. Brown, in particular, to evince throughout the whole examination and trial that she enjoyed good health, the policies of insurance being always kept in view by her, and the consequences likely to result from a fair and candid statement of her health and habit of body.

Your Petitioner, therefore, most respectfully prays that your Honor will be pleased to take the preceding remarks into your consideration, and recommend him to His Excellency the Governor-General for a free pardon.

And your Petitioner, as in duty bound, will ever pray.

(Signed) **FREDERICK BEER.**

NOTE.—His Honor Judge Therry had subsequently an interview with Dr. Beer on Cockatoo Island, and directed him to lay his case before the Executive, which order is entered in the minutes of the Island, under date the 10th June, 1858.

## APPENDIX A., No. 4.

COCKATOO ISLAND, 20th June, 1858.

To S. NORTH, Esq.,

Visiting Magistrate of C. I.

Worshipful Sir—In accordance with your permission I respectfully beg to address you, shewing the grounds on which I am desirous of petitioning His Excellency the Governor-General.

1.—Because His Honor Mr. Justice Therry on my interview with him on the 10th instant stated to me that after the verdict of the Jury the case was out of his hands, but told me to petition the Executive and bring before



the opinion of Sir Benjamin Brodie, which His Honor admitted to be genuine, and which threw a new *feature* on the whole case. His Honor at the same time intimated to me that I should show to the Executive that the medicine (Belladonna) as prescribed, was not dangerous, which I am prepared to do if permitted.

2.—That *ten of my witnesses* who had *been duly subpoenaed* to give evidence on my trial were not called and examined by Mr. Blake notwithstanding it was my wish they should have been, as their evidence would have acquitted me.

3.—I can prove by my assistant Mr. Horner that Mrs. Brown, who gave evidence against me, was the identical Mrs. Brown for whom I formerly prescribed Belladonna in equally large quantities, although by a legal ingenuity on the part of the prosecutors I failed in proving so on my trial, and the same witness can prove that I was in the habit in my practice of prescribing to my patients suppositories containing the same medicine in the same quantity, as well as the use of the Extract of Belladonna by mouth and upon blisters and in larger doses comparatively speaking, amongst whom is one Mr. Roberts, one of the gentlemen who sat as *Jurors* in my case.

4.—That Drs. Redhead and Williams (junior), who have since attended Mrs. Brown, will prove that she was at that time and is now labouring under that particular diseased state of her rectum which I mentioned at my trial, which led the medical witnesses to give evidence on a false supposition, viz: that she was in good health.

5.—That I am prepared to prove that the medicine prescribed by me in that quantity and method of application *was not* a dangerous medicine and would not have produced the effects which the medical testimony for the prosecution attributed to it.

I have learned and can prove by Dr. Wolmat, of Penrith, that he used suppositories containing (each) double the quantity of the same medicine than those I prescribed, which is the dose recommended when used *per anum* by many of the most eminent Physicians in Europe.

Lastly, I have learned and can prove that Mrs. Brown and Caroline Smith by the Convict-Ship "Anson" to Hobart Town are identical, and that she subsequently kept a brothel in Flinder's Lane, Melbourne. Under these circumstances which had not transpired at my trial, particularly the opinion of Sir B. Brodie, given after an investigation of the whole case, I respectfully solicit your permission to petition the Governor and the Executive Council in accordance with the directions of Mr. Justice Therry, who told me on the 10th instant that such a petition would be referred to him and he would report upon it, remarking at the same time that it was not necessary to prove the diseased state of Mrs. Brown's bowels.

I have the honor to be,

Worshipful Sir,

Your obedient Servant,

FREDERICK BEER,



[*Copy of Answer to the foregoing address.*]

The Superintendent will be pleased to inform Frederick Beer that his case is not one of those coming under the 3rd clause of the new regulations, and he therefore cannot be allowed to petition the Governor-General.

(Signed) S. NORTH.

14th July, 1858.

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NOTE.—During the interview with Judge Therry, on the 10th June, 1858, on the Island were present the Rev. Mr. Agnew, Dr. West, and Mr. McPherson, Inspector. His Honor's direction to petition is entered in the minutes of the Office on that day.

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## APPENDIX A., No. 5.

1861.

Legislative Assembly, New South Wales.

# FREDERICK BEER.

(PETITION FROM BRAIDWOOD IN REFERENCE TO.)

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*Ordered by the Legislative Assembly to be Printed, 24th April, 1861.*

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To the Honorable the Legislative Assembly of New South Wales.

The humble Petition of the undersigned Inhabitants of the District of Braidwood,—

RESPECTFULLY SHEWETH:—

- 1.—That your Petitioners are Residents of the Town and District of Braidwood.
- 2.—That Frederick Beer was, in the month of April, 1856, convicted at Sydney, and sentenced to ten years imprisonment on a charge of having illegally administered Belladonna to one Phyllis Brown.
- 3.—That in the month of April last the said Frederick Beer obtained from the Crown a Ticket-of-leave for the District of Braidwood aforesaid.
- 4.—That the said Frederick Beer has since that date resided in Braidwood aforesaid, and has been and still is in extensive practice as Physician and Surgeon.
5. That in the practice of such profession the said Frederick Beer must necessarily be intrusted with the confidence and the very lives of a large number of the Inhabitants of the said Town and District
- 6.—That from circumstances which have transpired since the said conviction, your Petitioners have good reason to believe that the said Frederick



Beer was not guilty of the offence for which he was so convicted; and that evidence which was not forthcoming at the trial of the said Frederick Beer, and which could not have then been obtained, but which can now be produced, will prove that he was not guilty of such offence, and that he was therefore, wrongfully convicted.

Your Petitioners, therefore, humbly pray that, for the security of your Petitioners and the other Inhabitants of this District, and in justice to the said Frederick Beer, a full and minute inquiry into, and investigation of, all the circumstances connected with the case of the said Frederick Beer may be instituted.

And your Petitioners will ever pray.

[Here follow 1,564 Signatures.]

## APPENDIX B.

We hereby certify that on the 23rd June, 1868, we made a digital examination of the rectum of the body of Phillis Adolphia Brown, at the Lord High Admiral Inn, Botany Street, Surry Hills, and found about an inch from the external orifice a narrow annular stricture, and about an inch above this another stricture also annular, but broad, thick, and evidently of long standing.

N. G. ANDERSON, F.R.C.S.,

12, South Head Road.

Equivalent testimony had been previously given on oath by DR. J. REDHEAD. His Affidavit runs as follows:—"On the 27th August, 1860, John Redhead, of Braidwood, in the Colony of New South Wales, Surgeon, being duly sworn, maketh oath, and saith as follows:—I am a duly qualified medical practitioner, and was so on and before the month of September, in the year 1857. On the last mentioned month and year I attended Mrs. Phillis Brown professionally. She then resided in Cumberland Street, in the city of Sydney, in the colony aforesaid. On examining her, I found she was suffering from an organic stricture of the rectum in the form of a ring, about an inch from the Sphincter Ani. I found that the disease was one of long standing, and that she had been previously treated for its reduction, but without success. She was, when I was called in, in a state of continued irritation. The Phillis Brown above mentioned, is the same person who in the month of April, 1856, appeared as a witness, and gave evidence at the Criminal Court, in Sydney against Dr. F. Beer, on his trial, for the administration of belladonna to the Phillis Brown."

(Signed) JOHN REDHEAD,

Surgeon, &c.

Sworn by the deponent, on the day first mentioned, before me.

(Signed) JOHN GURNEY,

Commissioner for Affidavits.



## APPENDIX C., No. 1.

(*Report of Committee of Legislative Assembly, January 16th, 1862.*)

THE Select Committee of the Legislative Assembly, appointed on the 22nd October last, "*to inquire into and report upon the Petition of Dr. F. Beer, presented to this House on the 23rd April last, and ordered to be printed on the 24th April, 1861,*"—with power to send for persons and papers,"—have agreed to the following Report:—

It appears that Frederick Beer was tried on the 9th, 10th, 11th, and 12th April, 1856, on two counts, viz., 1st. for that he did, on 10th day of February, 1856, feloniously and unlawfully administer to, and cause to be taken by one Phillis Brown, a large quantity of a certain noxious thing called Belladonna, to wit, half a drachm of the said noxious thing called Belladonna, with intent then and there, and thereby, to procure the miscarriage of the said Phillis Brown; and 2ndly, for that he did, on the 10th February, 1856, feloniously and unlawfully administer to, and cause to be taken by the said Phillis Brown, a large quantity of a certain deadly poi-son called Belladonna, to wit, half a drachm of the said Belladonna, with intent, then and there, and thereby, feloniously, wilfully, and of his malice aforethought, to kill and murder the said Phillis Brown; and that he was found *guilty* on the first count, and *not guilty* on the second; and was sentenced to ten years on the roads or public works of the Colony, with hard labour.

A Petition was in April last presented to your Honorable House, signed by 1,564 inhabitants of the District of Braidwood, stating, "That, from circumstances which have transpired since the said conviction, your Petitioners have good reason to believe that the said Frederick Beer was not guilty of the offence for which he was so convicted; and that evidence which was not forthcoming at the trial of the said Frederick Beer, and which could not have then been obtained, but which can now be produced, will prove that he was not guilty of such offence, and that he was therefore, wrongfully convicted."

Your Committee were subsequently appointed to take this Petition into consideration; and they have now the honor to report, for the information of your Honorable House, the decision arrived at after the examination of a number of witnesses, after having given the evidence that careful and grave attention which the importance of the case demanded, and after having afforded to the medical gentlemen who gave evidence on the trial, an opportunity to repeal, modify, or alter their opinions if they saw any necessity for so doing.

It is established incontrovertibly that many persons, whose evidence most probably would have seriously affected the decision at the trial, were either in Court or waiting to be examined, whom Dr. Beer was not permitted to produce; and that evidence has since been procured which would further tend to exculpate him from the crime for which he was convicted, viz., that of Sir Benjamin Brodie, and the evidence of some of the other witnesses examined by your Committee.



The evidence of Dr. Salter, Dr. Alloway, Dr. Berncastle, Dr. Brown, Dr. Eichler, Mr. W. J. Anderson, Mr. M. Eagan, Dr. Cox, and Dr. Boyd, proves incontestably.

1. That abortion could not have resulted from the use of Belladonna, as administered; on the contrary, that its effects would be to prevent abortion.
2. That it could not have caused the death of the child, except through the maternal system.
3. That, as it was administered to the mother, none of the effects stated to have immediately followed the introduction of the suppository could result from its use, as a very considerable period must elapse before it could be dissolved and absorbed.
4. That as a general rule, the quantity could not in any way be dangerous.

And Mr. Dent's evidence proves,—

5. That Dr. Beer had been constantly in the habit of prescribing this drug, for other patients in larger doses than those used in this case; therefore there was nothing unusual in its application here.

It must not be lost sight of—that, whereas Dr. Beer was convicted of administering half a drachm of Belladonna, not more than five grains, or one sixth of that quantity was ever taken in one day, and the directions for its administration were, to persist in its use only according to its effects, which, if injurious, would very gradually have developed themselves.

Without in any way impugning the decision arrived at by the jury who tried the case, who, on the evidence before them, could perhaps have arrived at no other conclusion, your Committee have no hesitation in reporting, from the evidence laid before them, that the use of belladonna, in the mode prescribed, could not have procured abortion, and, on that ground they absolve Dr. Beer altogether from the charge on which he was found guilty,

Your Committee are of opinion that Dr. Beer ought to have had an opportunity afforded him of placing his case before the Executive Council, and that the Visiting Magistrate was not warranted in refusing him permission to forward a Petition to the Executive, as suggested by Mr. Justice Therry, as it is clear that the letter of Sir B. C. Brodie was precisely within the category prescribed by the regulation—quoted by the Visiting Magistrate in justification of his refusal.

MERION MORIARTY,

Chairman.

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## APPENDIX C., No. 2.

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100, Elizabeth Street, Sydney,

23rd, June, 1868.

RE DR. BEER.

Dear Sir—Your note of yesterday to hand. I was acting professionally for Dr. Beer in 1865, and about the time named by you Dr. Beer sought my advice as to the best means of securing to Mrs. Brown or some members of



her family the benefit of a Policy of Insurance on her life, which he was about as I understood to obtain from one of the Insurance Offices in Sydney. I have no recollection of having prepared a draft assignment (though I may possibly have done so), but I am clear in my recollection as to his having sought my advice on the subject and that circumstance always impressed me considerably in his favour in after events.

Yours truly,

WILLIAM DEANE.

WILLIAM HELLYER, ESQ., Solicitor, King Street.

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## APPENDIX D.

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### COPY OF THE FIRST OF DR. REDHEAD'S LETTERS.

SYDNEY, 29th September, 1857.

TO MR. CHARLES REYNOLDS,

My dear Sir—Would you be kind enough to furnish me with the full particulars of the trial of Dr. Beer, especially the evidence of the medical men given at the occasion. I am at present in attendance upon Mrs. Brown, and wish, for scientific purposes, to investigate as far back as possible all the circumstances connected with Dr. Beer's affair, thinking that I may be able to elucidate a most important point in medical science.

By obliging me with a correct copy of all evidence taken, Dr. Beer's remarks included, you would confer a great favor on

Yours very sincerely,

J. REDHEAD,

Surgeon.

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## APPENDIX E.

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I certify that the original opinion of Sir Benjamin Collins Brodie herein referred to as also the other papers or copies thereof are in my possession.

WILLIAM DEANE,

Solicitor,

8th May, 1860.

9, Hunter Street, Sydney.

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## APPENDIX F.

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*Frederick William Elliott*, on oath, states:—I am a druggist carrying on business in George-street, Sydney; the prescription produced was brought to me by Mr. Brown's son; I made up the drug according to the prescription; it contains half a drachm of extract of belladonna, 1 drachm of soap, 1 drachm lycopodii, to be mixed together in six equal parts in suppositories; the suppositories produced appear to be some of those I made; the label on the box produced is in my handwriting; the box I delivered to the boy is now produced.

FRED. W. ELLIOTT.



Sworn at the Police Office, Sydney, this 10th day of March, 1856, before,—  
J. S. DOWLING, J.P.

For the evidence of Brown's son, contradicting his father's testimony, see Report in the Case of Beer v. Brown, *Empire*, 19th December, 1867, which contains a copy of the son Brown's affidavit.

That Report fully establishes M. G. Brown's perjury in the other particulars referred to at page 14.

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### APPENDIX G., No. 1.

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The following Address, together with a Chronometer Watch and Diamond Ring, value eighty guineas, was presented to Dr. Beer, previously to his departure from Braidwood, in 1866:—

To Frederick Beer, Esquire, Doctor of Medicine, Doctor of Surgery, and Doctor of the Art of Midwifery, of the University of Zurich, Switzerland.

"We, the undersigned inhabitants of the town and district of Braidwood embrace the opportunity, previous to your departure, after six years' useful and exemplary residence amongst us, of assuring you that we have witnessed with pleasure the many acts of unostentatious and disinterested charity that you have performed during your sojourn in Braidwood, and of expressing our satisfaction in bearing witness to your uniform courtesy of demeanour, your unremitting attention and skilful performance of the highest duties that your successful professional career as the confidential adviser and friend of a large majority of the population could impose upon you."

"With the most ardent aspirations for your future welfare, we beg you to accept the accompanying testimonial, as a small token of our never failing regard."

And believe us to be, Sir,

Your affectionate well-wishers,

JOSEPH TAYLOR, J.P., Chairman.

WILLIAM A. KERSHAW, Secretary.

On behalf of the subscribers.

Braidwood, New South Wales, April 10th, 1866.

The following remarks appeared in the leading columns of the *Braidwood News*, March 30th, 1866:—

"It has been understood for some time past by a few of his most intimate friends that Dr. Beer intended to leave the district in the early part of this year, but this fact was not generally believed by the great bulk of the community. We are, however, in a position to state that Dr. Beer really intends to finally leave the town in the early part of next month. Whether he will remain in the colony or proceed to Europe, is a matter we are not in a position to state. His departure, however, from amongst us will be regretted by many—very many of the residents of Braidwood and the surrounding districts. It would be superfluous on our part to express adulation or praise upon the high medical attainments which has characterised the Doctor's career, during a six years' residence in this town. His ability as a physician, as a surgeon, and as an accoucheur, is too well-known and appreciated to need comment at



our hands, whatever his enemies may say to the contrary notwithstanding. At the present moment, when various types of fever—fever which, in spite of the opinions expressed by other medical men, has proved so disastrous and fatal—exist throughout the district, the retirement from Braidwood of Dr. Beer is to be much deplored. Whatever may be the opinion of many as to the Doctor's published predictions, symptoms, and treatment of the fatal scourge which has periodically visited this district for the last three or four years, it is satisfactory to know that the other medical men are adopting the same course of treatment, which has always resulted with success under the hands of Dr. Beer. There are other little bits of gossip current, which, indeed, reflect great credit upon the Doctor, and which, notwithstanding his apparent high fees to people of means, go to show that although he is an able man, he is also a merciful and charitable one. For the last three or four months, although upon the eve of his departure from amongst us, the Doctor has—according to statements made by the parties themselves to us—been attending upon a number of persons who have been seized with the fever, in many instances long distances from town. At all hours of the day and night, we are told, the Doctor has been called from his house to visit this one or that one, and although well knowing that the chances of his ever obtaining a farthing was out of the question, he has freely responded to the call, and we have it from undeniable authority that in several cases he has put his hand in his pocket, and contributed small sums of money to the patients to purchase the necessary medical comforts required during their sufferings. We merely mention these facts to show that the Doctor is not the selfish and uncharitable being which some few individuals wish to make the public believe. We may do without the Doctor, but we are sure his full value will only be known when beyond our reach when needed."

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#### APPENDIX G., No. 2.

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SYDNEY TO WIT, NEW SOUTH WALES.—I, John Williams, of Sydney, in New South Wales, Broker, do solemnly and sincerely declare that I was subpoenaed a juryman at the time of Dr. Beer's trial, in the year eighteen hundred and fifty-six. That I saw Dr. Beer conducting his own defence, subsequently I saw Mr. Blake acting as his Counsel, but the last day of his trial I saw him again without Counsel. That the said Dr. Beer on the said last day of his trial said to Judge Therry who was the Judge trying him, that he was undefended and asked for some person or persons to be called (but I do not remember whom) to give evidence. That Mr. Holyroyd who was prosecuting by permission on behalf of the Crown objected, and that His Honor Judge Therry in reply to Doctor Beer's application to call evidence said that he could not allow further evidence to be called, as the prisoner's (meaning Doctor Beer's) Counsel had closed his case the day preceding, besides which, that his (meaning Doctor Beer's) trial had already lasted four days. And I make this Solemn Declaration conscientiously believing the same to be true, and by virtue of the provi-



sions of an Act made and passed in the ninth year of the reign of Her Majesty entitled an Act for the more effective abolition of Oaths and Affirmations taken and made in the various departments of the Governments of New South Wales and to substitute declarations in lieu thereof and for the voluntary and extra judicial oaths and affidavits.

JOHN WILLIAMS.

Subscribed and declared before me, by John Williams, of Sydney, this sixth day of December, eighteen hundred and sixty-one.

(Signed) J. W. DEAN,  
Notary Public.

NEW SOUTH WALES, TO WIT.—On this eleventh day of February, in the year of our Lord one thousand eight hundred and sixty-five, George Fordermann, of Braidwood, in the District of Braidwood and Colony of New South Wales, Digger, saith as follows:—"I was at the Supreme Court, in Sydney, during the trial of Dr. Beer for attempting to procure abortion. I was frequently in and out of the Court, and I saw Medical men after having given their evidence in the Court write something on slips of paper and circulate them round amongst a number of Medical men who were standing outside the Court. I acquainted the accused (Dr. Beer) of the circumstance. This occurred in the month of April, eighteen hundred and fifty-six."

GEORGE FORDERMANN.

Declared before me, in Braidwood, this eleventh day of February, eighteen hundred and fifty-six.

DAVID DICKSON, J.P.

## APPENDIX H.

### CERTIFICATES OF HEALTH, (page 25).

Sir Dominick Corrigan and other leading physicians in the mother country object to "family doctors" supplying Insurance offices with Certificates of Health for their patients, as the following paragraph—clipped from a recent number of *The Illustrated London News*—will show:—"The man who, having a family dependent on him, cannot save, and does not assure his life, may, one of these days, be considered as coming into the category of the dangerous class. Meantime, the myriads of honest and striving men who sleep soundly because a certain parchment is in the draw with the will, may be interested in a question which a distinguished medical man has raised. It is asserted that a man's confidential doctor ought not to be asked to reveal the secrets of his patients constitution. Indeed there are some secrets he cannot in honour reveal. The physician knows things which the patient himself may not know, and of which it is most important to the latter that he should be ignorant. If an office, on the report of a man's private adviser, rejects a proposal, the proposer's health or sanity may be fatally affected by the suspicion which will thus be generated in his mind. Anything Sir Dominick Corrigan may say demands respectful attention.



### NOTA BENE.

As some matters of delicacy—essential to the argument—are touched on in the preceding pages, the Writer deems it due to his sense of propriety to mention, that this Pamphlet is not intended for promiscuous perusal. It will be circulated gratuitously (and solely) among the Medical Faculty (whose opinion on it is respectfully asked), Members of the Legislature, Magistrates, Clergymen, Jurors—in a word those who directly control, or indirectly influence, the administration of Justice. Copies will also be forwarded to the most distinguished Members of both Houses of the Imperial Parliament, and to the leading Medical men of Europe and America. He begs also to intimate that the conduct of only a small section of the Medical body—pretentiously called “the elite of the profession in Sydney,” twelve years ago—is animadverted upon.



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**SYDNEY:**

Printed by J. A. Engel, "Guttenberg" Printing Office,  
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